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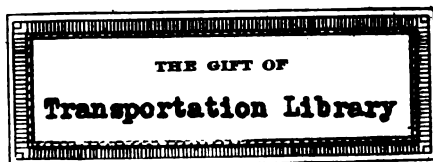
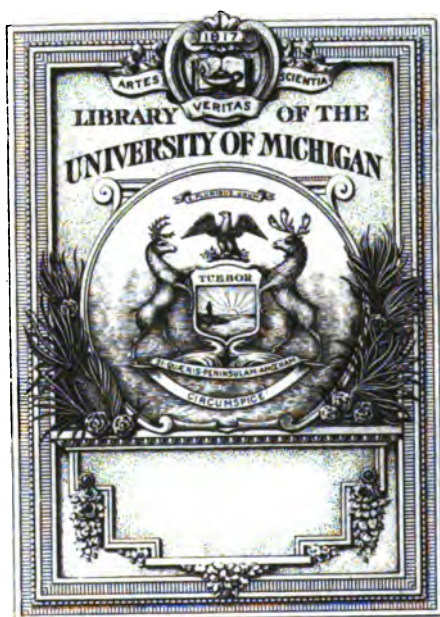
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DOCUMENTS
OF THE
ASSEMBLY
OF THE
STATE OF NEW-YORK,
FIFTY-FOURTH SESSION,
1831.

VOLUME III.
FROM No. 195 TO 279, INCLUSIVE.

ALBANY:
PRINTED BY E. CROSWELL, PRINTER

1831.





IN ASSEMBLY,

February 18, 1831.

REPORT

Of the select committee on the Petition of Isaiah Townsend and others, for the incorporation of the Albany Water-Works company.

The select committee to which was referred the petition of Isaiah Townsend and others, for the incorporation of a company to supply the city of Albany with pure and wholesome water,

REPORTED :

The subject presented to the consideration of the committee, is intimately connected with the health and comfort of a large portion of the citizens of the city of Albany. The inadequate supply of pure water, to many of its inhabitants, and the great inconvenience and heavy expense in procuring it, are alleged as the reasons for making this application. In 1802, a company was chartered, for the purpose of supplying the city of Albany, *and its neighborhood*, with wholesome water; since which, twenty-eight years have elapsed, and during the whole of that period, the company has been in operation. The design of the Legislature in making this grant, was obviously that the whole city might be furnished with an un-failing supply. This object has been accomplished in part only. An ample supply of good water has, under the direction of the company, been conducted into the lower part of the city, and a portion of the inhabitants residing east of Eagle-street are furnished, while those living west of that street, and in the upper part of the city, are entirely unprovided for. This deprivation has been, and continues to be, severely felt by your petitioners, who have hereto-

fore applied to the Legislature for a charter, with powers similar to those possessed by the present company; and at two different sessions, a bill for this purpose has passed the Senate. The bill passed by that body during the last year, reached this House at a very advanced period of the session; was made the special order of the day preceding that on which the Legislature adjourned, and when its attention was so completely absorbed with other matters, that no opportunity was then afforded for further legislation on the subject. The application is now renewed, and with entire confidence in the result. Considerations of public good, and the benefits to flow from an acquiescence by the Legislature in the prayer of the petition, ought, in the judgment of the committee, secure to it a favorable notice.

A remonstrance on the part of the Albany water-works company, now in operation, has also been under consideration. And the trustees or agents of this company have appeared before your committee in opposition to the grant of a second charter. It is urged that such a grant would prove detrimental to their interests by causing a diminution of profits; but the opposition rests *mainly* upon the mistaken supposition that it would be an infringement upon their chartered rights. At first this objection appeared imposing, and in order to determine the question as raised by the remonstrants, the committee have examined with much care the provisions of their act of incorporation, the result of which is a settled opinion that it does *not* confer such exclusive privileges, that the incorporation of another company for similar purposes would in any degree impair their rights.

Entertaining such an opinion, your committee cannot but act in accordance therewith, by presenting for the consideration of the House a bill, which they ask leave to introduce.

IN ASSEMBLY,

February 15, 1831.

ANNUAL REPORT

Of the Trustees of the New-York Bank for Savings,
for the year 1830.

Pursuant to the provisions of an act, entitled "An act to incorporate an association by the name of the Bank for Savings, in the city of New-York," the trustees now beg leave to present their twelfth

REPORT, AS FOLLOWS :

First.—That the trustees have received from fourteen thousand two hundred depositors, from the first of January to the thirty-first of December, 1830, the sum of seven hundred and forty-one thousand, five hundred eighty-three dollars and ninety-five cents, in the following manner. :

In the month of January,	from	1,263 depositors,	\$57,683 90
" February,	"	881 "	45,559 00
" March,	"	1,080 "	56,929 95
" April,	"	890 "	48,836 73
" May,	"	1,211 "	75,899 62
" June,	"	1,592 "	92,646 69
" July,	"	1,245 "	58,758 60
" August,	"	1,251 "	60,644 13
" September,	"	1,195 "	60,430 83
" October,	"	1,202 "	57,470 12
" November,	"	997 "	54,967 31
" December,	"	1,393 "	71,767 06
			<hr/>
			14,200
			<hr/>
			\$741,583 95

of which number 3,428 are new accounts opened with the bank, and 10,772 are re-deposits.

14,200

Second.—That the sum of five hundred and fifty-three thousand, seven hundred and forty-seven dollars and thirty-seven cents, has been drawn out by nine thousand, two hundred and seventy-eight depositors. Of this number 1,629 have closed their accounts.

In the month of January,	paid	941 drafts,	\$50,573 08
“ February,	“	900 “	46,677 98
“ March,	“	728 “	43,428 20
“ April,	“	923 “	75,353 25
“ May,	“	839 “	52,138 39
“ June,	“	503 “	23,909 16
“ July,	“	981 “	63,856 92
“ August,	“	834 “	44,288 86
“ September,	“	663 “	39,956 23
“ October,	“	781 “	56,415 52
“ November,	“	657 “	35,793 76
“ December,	“	528 “	21,356 00
			<u>9,278</u>
			<u>\$553,747 37</u>

Third.—The depositors have been classed under the following heads of professions and occupations :

Accountants,	16	Brick-Makers,	1
Attorneys,	18	Button-Makers,	1
Auctioneers,	3	Boot-Makers,	4
Blacksmiths,	47	Boot-Cleaners,	1
Barbers,	11	Bandbox-Makers,	1
Boarding-house Keepers, ..	41	Brokers,	3
Booksellers,	1	Boatmen,	5
Butchers,	9	Cooks,	72
Bookbinders,	12	Clerks,	105
Bakers,	49	Chamber-maids,	21
Brass-Founders,	1	Cartmen,	75
Basket-Makers,	1	Carpenters,	95
Book-Folders,	2	Chairmakers,	6
Boat-Builders,	2	Coachmen,	24
Brush-Makers,	5	Curriers,	4
Bleachers,	4	Carvers,	6

Coopers,	20	Mantua-Makers,	68
Cabinet-Makers,	17	Masons,	51
Confectioners,	9	Merchants,	59
Comb-Makers,	5	Musicians,	4
Comedians,	2	Milkmen,	10
Collectors,	3	Miners,	2
Cotton-Samplers,	1	Musical Instrument-Makers,	4
Coppersmiths,	2	Marshals,	3
Custom-House Officers, ...	2	Machinists,	9
Coffee-Samplers,	2	Millwrights,	3
Coach-Makers,	2	Marble-Polishers,	6
Cotton-Winders,	4	Moulders,	4
Coffee-Burner,	1	Miller,	1
Cotton-Spinner,	1	Maltsters,	2
Cap-Maker,	1	Nurses,	65
Collier,	1	Newsman,	1
Domestics,	470	Nailer,	1
Distillers,	4	Oystermen,	7
Druggists,	11	Ostlers,	14
Dyers,	9	Porter-Bottler,	1
Dentist,	1	Printers,	30
Engineers,	10	Pedlers,	20
Equestrians,	2	Physicians,	17
Founders,	7	Porters,	37
Farmers,	61	Painters,	27
Fishermen,	6	Preachers of Gospel,	30
Furrier,	1	Pilots,	4
Fruiterers,	17	Perfumer,	1
Fringe-Maker,	1	Pocket-book-Makers,	2
Grocers,	57	Police Officers,	2
Gardners,	26	Plumber,	1
Gold-Beater,	1	Paper-Maker,	1
Grate-Makers,	4	Portrait-Painters,	3
Glass-Workman,	1	Pickle-Maker,	1
Gaolers,	3	Quarryman,	1
Glass-Cutters,	3	Rope-Maker,	1
Gilders,	3	Reed-Maker,	1
Glovers,	2	Riggers,	8
Hatters,	15	Seamstresses,	106
Hat-Trimmers,	3	Ship-Masters,	6
Hucksters,	10	Sailors,	43
House-Keepers,	8	Soldiers,	3
Inspector of staves,	1	Shipwright,	1
“ of Wood,	3	Shop-Keepers,	25
Jewellers,	6	Stone-Cutters,	29
Laborers,	284	Saddlers,	10
Locksmiths,	3	Shoe-Makers,	83
Lamp Lighters,	2	Sail-Makers,	2
Leather-Dressers,	11	Sugar-Bakers,	15
Last-Makers,	1	Shoe-Binders,	7
Linen Draper,	1	Sawyers,	7
Milliners,	35	Students,	3

Saw-Filer,	1	Tavern-Keepers,	21
Stevidore,	1	Trunk-Maker,	1
Spinners,	2	Tanners,	3
Slaters,	3	Tinners,	8
Segar-Makers,	3	Tallow-Chandlers,	6
Sausage-Makers,	4	Truss-Makers,	2
Silversmiths,	5	Upholsterers,	5
Sextons,	2	Umbrella-Makers,	3
Soap-Makers,	2	Varnish-Maker,	1
Starch-Maker,	1	Waiters,	74
Skinner,	2	Weavers,	27
Saw-Maker,	1	Washerwomen,	26
Teachers, (female)	33	Watch-Makers,	7
" (male)	28	Wheelwrights,	2
Tailors,	77	Whitewashers,	6
Tailoresses,	60	Whitesmiths,	4
Tobacconists,	5	Wool-Stapler,	1
Type-Founders,	2	Watchman,	1
Turners,	2	Wharfinger,	2
			<hr/>
			3,075
Not described, being miners, &c.			353
			<hr/>
			3,428
			<hr/>

DESCRIPTION OF PERSONS.

Minors, (female)	101	Single Women,	793
" (male)	91	Trustees, deposits in trust	} 417
Orphans,	7	for children, orphans,	
Apprentices,	3	apprentices, &c.	
Widows,	353	Colored persons,	174
			<hr/>
			1,939
			<hr/>

Fourth.—The deposits have been made in the following sums:

From	1 to	5 dollars,	1,432
"	5 to	10 "	2,084
"	10 to	20 "	2,723
"	20 to	30 "	1,865
"	30 to	40 "	1,029
"	40 to	50 "	1,332
"	50 to	60 "	526
"	60 to	70 "	359
"	70 to	80 "	307

Carried forward,

Brought forward,			204
From	80 to 90 dollars,		747
"	90 to 100 "	916
"	100 to 200 "	341
"	200 to 300 "	166
"	300 to 400 "	97
"	400 to 500 "	40
"	500 to 600 "	11
"	600 to 700 "	5
"	700 to 800 "	5
"	800 to 900 "	6
"	900 to 1,000 "	1
"	1,000 to 2,000 "	
			<hr/>
			14,200
			<hr/>

20, to
21, to
22, to
23, to
24, to
25, to
26, to
27, to
28, to
29, to
30, to
31, to

**Business of the Institution, from the com-
1831.**

REPAID.		
F20, to	369 drafts,
21, to	1,274 "
22, to	1,802 "
23, to	2,925 "
24, to	3,314 "
25, to	4,514 "
26, to	3,002 "
F27, to	6,476 "
28, to	7,246 "
29, to	9,085 "
30, to	9,376 "
31, to	9,278 "
58,688		\$4,349,050 57



The funds of the Institution are invested in and consist of,

1st. Funded debt of the United States, and of the State and City of New-York, and Ohio canal stock, at the par value,	\$2,231,673 77
2nd. Bond and mortgage of the public school society,	60,000 00
3d. Real estate, a building for the accommodation of the bank, and the furniture of the bank,	22,292 78
4th. Cash uninvested,	46,777 43
	<hr/>
	*\$2,360,743 98
	<hr/>

JOHN PINTARD, *President.*

ROBERT C. CORNWELL, *Secretary.*

* *Note.*—Leaving a balance of \$14,079.71 in favor of the Institution, towards paying for the banking-house.



i loaned,

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IN ASSEMBLY,

February 14, 1831.

MEMORIAL

Of Albert Gallatin, Morgan Lewis, and others, to
incorporate the University of the city of New-
York.

*To the Honorable the Legislature of the State of New-York, in
Senate and Assembly convened.*

The council of the University of the city of New-York, respectfully represents to your Honorable bodies :

That several liberal and public spirited individuals of this city, believing that the interests of science and useful learning would be greatly promoted by the establishment of an institution for education, combining the advantages of an European university, with the improvements in instruction supplied by the present state of knowledge ; brought the subject before the public at the close of the year 1829, and commencement of 1830.

The general principles of the project were most favorably received. A few individuals subscribed about \$114,000, in aid of the institution, which with suitable encouragement may be increased to any desirable amount ; and some of the most respectable literary societies of the city came forward, proffered a connection with the University, and proposed granting to its use, books, collections in natural history, and other literary property to the value of from 80,000 to \$100,000 : and also to appropriate incomes to nearly the amount of \$4,000 annually for the increase of the libraries and collections ; thus supplying the University at once with one of the most select and extensive collections of books possessed by any institution in the country, and amounting to nearly 40,000 volumes. Encouraged by these munificent evidences of public opinion, the subscribers to the

University, in fulfilment of the original plan, met and elected a council composed of thirty-two shareholders, of at least \$100 each ; of the mayor and of four members of the common council of the city of New-York.

The council since its establishment, has devoted itself most assiduously to digesting a plan of organization for the University, in conformity to the terms upon which subscriptions were made by the shareholders.

The council begs permission, respectfully to submit to the Honorable the Legislature, the plan of organization adopted by it, and to make it part of this its petition.

With a view to give character and perpetuity to the institution, its friends and patrons deemed it a cardinal object to obtain an act of incorporation, so soon as the requisite funds were secured, and a satisfactory plan of organization should be matured; and it is in fulfilment of that purpose that your petitioners now respectfully solicit from the Legislature such act of incorporation. Your petitioners are persuaded that so soon as the charter is obtained, their funds will be greatly augmented by those who have delayed contributing until they could learn with certainty that the institution would have the permanency and conveniency of management peculiar to a corporation.

Your petitioners feel assured they should unnecessarily occupy the valuable time of the Legislature by enlarging upon the general arguments in favor of their application. The course of legislation in this State for a series of years, manifests deep and active solicitude to give exemplary encouragement to education in all its departments. The council will accordingly confine the representations offered in aid of this petition, to the exhibition of some facts and reasons which lead it to anticipate that the institution proposed will be eminently useful to the public.

For a long time, there has been a persuasion with various classes of the community, that an education at our colleges is but of little value, except for those intended for a learned profession. It has been thought that the plan of studies adopted by colleges draws too much the attention of young men intended for mercantile, agricultural, and mechanical employments, from branches of learning practically useful to them, confining it to the dead languages and other

objects, more particularly serviceable to the general scholar and professional man. It is believed that the acquirement of a sufficient knowledge of languages, to be of service to the student, requires at least one half of his full collegiate course.

Your petitioners do not enter into the argument sustaining or opposing the opinion that this branch of study merits such attention, but they believe the influence of this persuasion upon those who might wish to afford their children higher advantages of education, is of no inconsiderable importance. Notwithstanding the cheapness and facility with which a college education may be obtained in every part of the country, your petitioners are persuaded that scarcely one out of a hundred receiving it, intends devoting himself to agricultural or mechanical business, and that the cases are exceedingly rare, in which those who are preparing themselves for mercantile pursuits seek a liberal education:—subsequent circumstances may lead the graduate to other than professional employments, but these are generally casual, and not anticipated. The inauspicious influence of this state of things, upon the literature of the country and the diffusion of knowledge, has induced some colleges to attempt a remedy, by opening an English course of education, which may be pursued by the student, with or without attending to the classical course.

Your petitioners are not possessed of facts which will enable them to speak with exactness as to the success of these efforts, but it seems to them that there are many considerations which may account for any failure or disappointment in this respect, by the institutions adopting this course of instruction, which would not apply to the one proposed in this city. Your petitioners would avail themselves of the fact, that attempts of that description are in train of experiment; in confirmation of the suggestion, that public opinion demands a change in the plan of education, which may adapt it to the existing state of society and of our institutions, domestic and political.—Knowledge, in this country, is chiefly sought for and appreciated in reference to its subserviency to the actual pursuits of life; and whilst the University will provide means of instruction for those who devote themselves exclusively to scientific or literary pursuits, one of its prominent and essential purposes is, to afford to all classes of the public the education best fitted to aid them in their pursuits—whether intended for the learned professions, commerce, or the mechanical or useful arts. The council accordingly proposes two great

departments of instruction in the University: One for elementary and practical education in the classics, in English and American literature and the sciences, and one partaking of the character of an university course, as on the continent of Europe, but so moulded and applied as to afford to the other a participation in all its benefits.

The plan of organization which accompanies this petition, will explain to your Honorable bodies the manner in which it is proposed to carry these views into execution. One of the leading features of the plan is, that persons of various ages and degrees of preparation may connect themselves with the University, and, with such exceptions and under such regulations as the studies preparatory to the learned professions may be deemed to require; pursue, at their election, any branch of study taught there. When no choice of study is made, the university will of course direct the application of the student to those studies which may be deemed suitable to his attainments and objects. Students may also leave the University at their option, and receive testimonials, certifying the time they have continued there, and the studies to which they have attended. Nor is it contemplated that one description of study shall be considered more honorable or meritorious than another. A person may as suitably graduate upon his attainments in the sciences and modern languages, or without any other than his native tongue, as with the acquisition of Greek and Latin. It is hoped the University will supply opportunities for instruction in every department of learning; but the pupil will only receive honors for his attention to one or another, in proportion to his proficiency. It is believed such a system may be easily and advantageously prosecuted in this great city, where the students do not reside in the buildings of the University, or meet together except to attend instruction in their classes or lecture rooms.

The mechanic can thus obtain for his son, who is destined to continue his calling, the most complete English education, and an opportunity of learning all that the sciences have discovered in aid of his business—so he, who contemplates devoting himself to farming, may be thoroughly instructed in the theories of agriculture and horticulture, whilst pursuing other useful and ornamental branches of education.

Topics of instruction congenial to the pursuits of the merchant, also abound; and young men may go from the halls of the University to

the counting house, with a conviction that every thing they have learned will be of ready and useful application in the business for which they are preparing themselves.

These suggestions are submitted for the purpose of affording the Legislature a succinct view of the prominent objects in contemplation, in the system of instruction designed to be pursued in this department of the university. The council is persuaded that the city of New-York alone possesses a sufficient number of persons ready to avail themselves of these opportunities, to render the university, in this respect, the most flourishing seminary on the continent. Looking at the great number of pupils sent yearly from the city to neighboring States for a collegiate or academical education, or who crowd the higher select schools of the city, and whose education terminates there ; and at the yet larger number of those who devote but little time to any studies after leaving the common schools, because they find no acceptable means of instruction furthering their preparation for the special business of their lives. Your petitioners cannot but feel a full assurance, that an institution of this description, judiciously conducted, will call to the halls of literature and science crowds of youths who will acquire and carry with them, into their various employments, a just appreciation of learning, in its application to the business and enjoyments of life.

Your petitioners will concisely advert to the other leading object of their institution, for which they hope to secure the co-operation of the lovers of learning in all parts of our country. An anxiety has long been entertained by men of letters, that a seminary should be furnished by this country, presenting some of the advantages for a finished education, which are enjoyed in the great universities of Europe. The attempts heretofore made have undoubtedly been attended with some degree of success and encouragement ; but no institution of the kind has yet risen to great pre-eminence. Your petitioners are aware of the impediments to any immediate or great success in such undertakings, arising out of the commercial character of our citizens : the small number of those who make letters a profession, and the disability of such institutions under the laws as they exist with us, to introduce their graduates into the learned professions.

Your petitioners, however, are persuaded that the city of New-York affords advantages which give greater assurance of success in

this respect than can at present be looked for in any other part of the country.

Independent of the numbers who may be expected, out of 213,000 inhabitants, to avail themselves of a course of instruction in the highest departments of learning, the position of the city is most advantageously adapted to attract students and men of letters from other States, and from abroad, to an institution of this character. This city will always offer opportunities for men of science, whilst pursuing their studies at the University ; at the same time to obtain profitable employments as instructors, writers, or otherwise : thus securing an immediate and profitable recompense for the time and expense devoted to their own improvement.

Your petitioners can speak with no precision upon this subject, but if they may be allowed to draw conclusions from a consideration of circumstances commonly connected with a university course of instruction, they would feel great confidence in the anticipation, that this department would be speedily filled, and that it would dispense blessings of inestimable magnitude to all parts of our common country. To avoid all hazard that the university would become sectarian, or under the controul of any particular religious denomination, the patrons have made it a fundamental condition, that no one religious persuasion shall ever have a majority of the council; and that no professorship of theology shall be established in the University : Independent of this restriction, there is no department of learning connected with the clerical calling, but what the council may hope to have ably filled and liberally patronized. It will be unnecessary for your petitioners to advert to the illimitable field of intelligence and usefulness that will be opened in preparing pupils for a sound and deep knowledge of the scriptures. Your petitioners need go no farther than to suggest the expectation, that this seminary will very soon afford the essential advantages in this most important department of knowledge which are now sought for by our youth, under the discouragements and expenses of a long residence at the European universities.

Your petitioners beg leave to offer a few remarks in relation to the other professional faculties proposed to be established. They are well aware of the solicitude of the Legislature to provide for a thorough and scientific education of the students in medicine and surgery. They do not believe that they speak arrogantly, in claiming for the members of the profession in the state, co-equal rank in

talents and reputation, with their brethren in any part of the Union. Many, after having devoted years of laborious study in foreign schools, in pursuit of that knowledge, which our own institutions were not prepared to supply, have now returned amongst us, ready to give us the benefits of those attainments and of the high reputation they have since acquired, in the improvement of medical instruction. Yet, notwithstanding these extraordinary advantages, and those afforded for the study of the science, by this great metropolis, the fact cannot be concealed, that compared with other states, a much more limited success has attended the efforts to establish medical schools in the State, than had been anticipated. Five or six hundred students attend those of Philadelphia ; and Baltimore counts four hundred ; whilst this populous city, with all its local advantages, its dispensaries and hospitals, and the practical and scientific eminence of the professors and of the faculty, can scarcely number one hundred and seventy students who attend its medical schools. The college of Fairfield, notwithstanding its advantageous connection with the northern and western parts of the State, and the acknowledged eminence of its professors, does not, it is believed, receive a greater degree of patronage than that in our city. The small village of Pittsfield, in Massachusetts, is said to educate nearly as many. The city of Charleston, and Lexington in Kentucky, each exceed that number.

This unfavorable result may, perhaps, be partly ascribed to the fact, that those who attend any of our own medical schools, are, in our own State, placed in a less eligible situation than those who study in other States. But your petitioners do not intend, and they leave it to those more immediately concerned, to call the attention of the Legislature to the improvements of which the system, sanctioned by the existing laws, may be susceptible. Their sole object is the advancement and diffusion of knowledge in every department of science. Animated by the most friendly feeling towards every other scientific institution, they may be permitted to indulge the hope, that the University may become instrumental in promoting that union between eminent professors, and in effecting that concentration and accession of talent, which would enlarge and complete the system of medical education, and enable our city to sustain, in that department, a fair competition with any similar institution in the other States. The University will, under any circumstances, ever be ready, by all the means which it may be permitted to possess, to assist in carrying into effect the measures which the Legislature, in

its wisdom, may deem best calculated to attain that most desirable object.

Your petitioners do not, in the department of law, contemplate, at present, any thing beyond courses of lectures to such gentlemen as may choose to attend ; and if, hereafter, it may be deemed proper by the competent authorities, to allow a portion of the time spent at the University, to be deducted from the term of clerkship, of law students, your petitioners assure your Honorable Bodies, that they will immediately so model the course of instruction as to render it most useful and interesting to that class of students. There remains but one other special subject to which your petitioners will advert. They propose establishing, in connection with the English department, a course of instruction for teachers of Common Schools.

They feel a persuasion that if enabled to execute this plan according to their hopes, they shall perform a service of more extensive and permanent value, than they may probably be enabled to effect in all the other departments of instruction. To those conversant with the existing state of our common schools, no defect is more prominent and serious, than the want of *capacity* in the teachers.

This is by no means universally owing to a want of *competent knowledge*. Very many instructors, and we might probably add with justness, a great majority of them, have acquirements sufficient for the instruction they are called to give. But where such is the case, they have rarely a *knowledge of teaching*. The art of presenting proper subjects to children, under proper arrangements, so as to enable their pupils to apprehend what is taught ; and more especially to call into exercise the *faculty of thinking*, your petitioners apprehend, is but little known to the great body of teachers. Your petitioners hope by means of profound and thorough instruction, in the philosophy of teaching, and with the aid of model schools, where the theory acquired by the student may be seen in practice, they will be enabled to give the greatest completeness to this department, and they cannot but anticipate that it is one which will deeply interest the public feeling, and receive the most liberal encouragement.

Your petitioners, therefore, to enable them to carry forward the great purposes of their patrons, and to provide a liberal and stable encouragement to learning in all its branches, respectfully solicit

from your Honorable Bodies an act of incorporation of the University of the city of New-York, to be located in the city of New-York. And in order to a clearer view of their application, they pray that the accompanying draft of a bill may be considered as part of their petition.

ALBERT GALLATIN,

President of the Council.

MORGAN LEWIS, *Vice-President.*

JOHN DELAFIELD, *Secretary.*

SAM. WARD, Jr., *Treasurer.*

New-York, 31 January, 1831.

IN ASSEMBLY,

February 15, 1831.

REPORT

Of the committee on the incorporation of cities and villages, on the petition of the inhabitants of the village of Geddes.

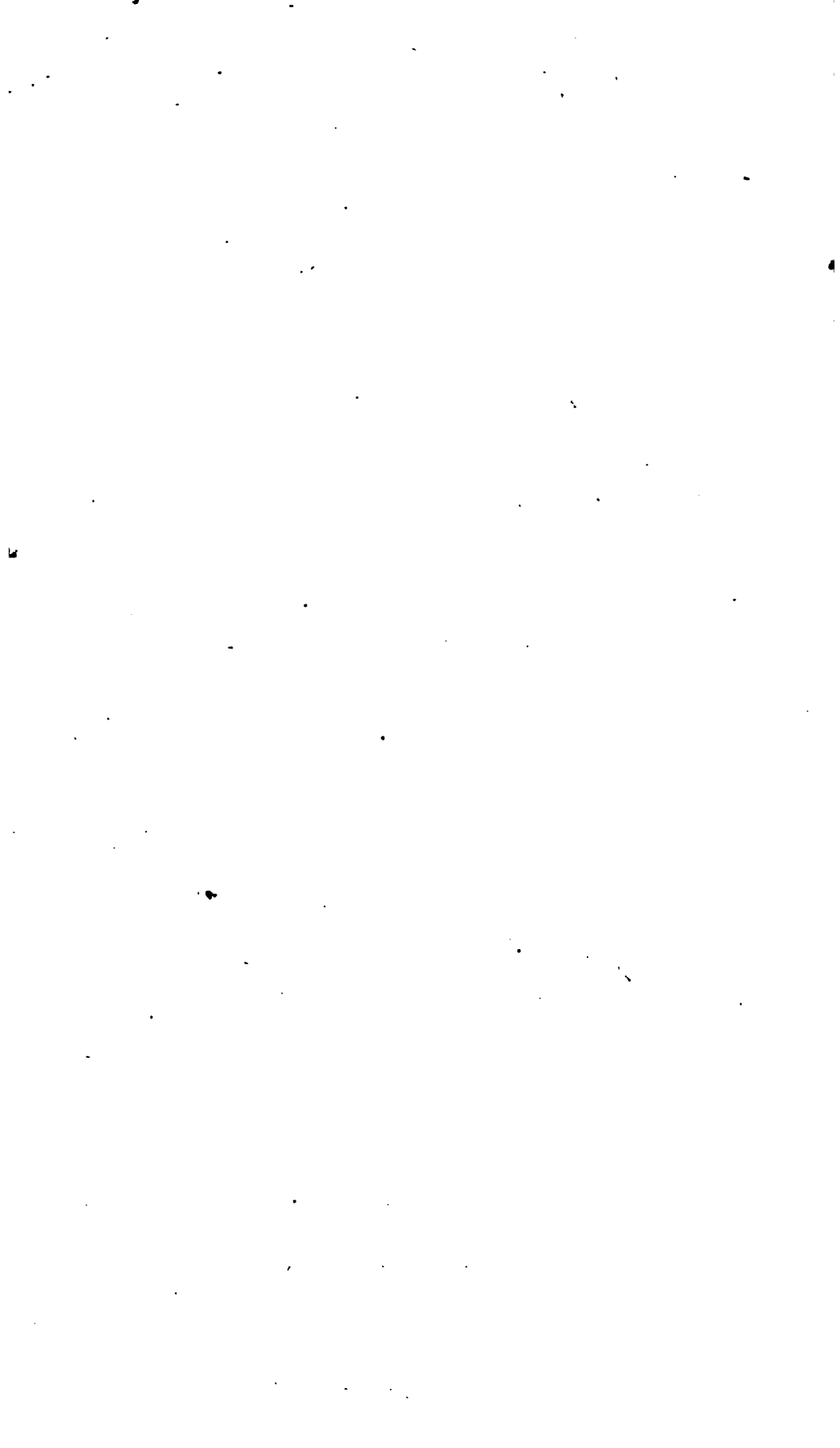
Mr. Ostrander, from the committee on the incorporation of cities and villages, to whom was referred the petition of the inhabitants of the village of Geddes, in the county of Onondaga, to incorporate said village, and the remonstrance against the same,

REPORTED—

That they have examined the subject referred to them, which is an application to incorporate the village of Geddes, but it appears that no notice of the application has been given as the law requires. Your committee, therefore, for the reasons above stated, feel it their duty to report against the prayer of the petitioners.

They therefore offer the following resolution :

Resolved, That the said petitioners have leave to withdraw their petition.



IN ASSEMBLY,

February 18, 1831.

REPORT

Of the Governors of the New-York Hospital.

*To the Honorable the Legislature of the State of New-York, in
Senate and Assembly convened.*

The Governors of the New-York Hospital,

RESPECTFULLY REPORT :

That, during the year 1830, there have been 1,690 patients admitted into the Hospital, who, with 191 patients remaining there on the 31st December, 1829, make 1,881 patients who have received the benefit of the Institution, during the past year. Of that number, 1,258 have been cured, 101 relieved, 128 have been discharged at their own request, or that of their friends, and 21 as improper objects ; 47 have eloped, or been discharged as disorderly, 150 have died, and 187 remained on the 31st December last.

The above numbers are exclusive of the maniac patients, of whom 134 have been admitted into the Bloomingdale Asylum, and with 83 remaining there on the 31st December, 1829, make 217 who have received the benefit of that Asylum during the past year. Of these, 125 were old, and 92 were recent cases. Fifty-six have been cured, 4 have been discharged much improved, 37 as improved, 20 at the request of friends, though not improved, 1 has eloped, and 92 remained in the Asylum on the 31st December last. Of the cures, 10 were of old cases and 46 of recent ones.

The amount of expenditures for the support of the Hospital, (exclusive of the Bloomingdale Asylum,) for the year 1830, has been \$27,260.69. The receipts, including the annuity of \$12,500, allowed by the State, the money received from the United States for
[A. No. 200.]

the care of sick and disabled seamen, and from all other sources, amount in the whole to \$29,587.32, leaving a balance in favor of the Hospital of \$2,326.63.

The expenditures for the support of the Bloomingdale Asylum for the past year, have been \$15,781.09. The amount which became due for board during the same period, was \$16,674.63. There was actually received for board, \$15,039.01. There was also received for vegetables sold, \$121.94; making the actual receipts for the year, \$15,160.95, exclusive of the annuity of \$10,000, allowed by the State. Of the latter sum, \$8,220 have been paid for interest on the money borrowed of William Edgar and Herman Le Roy; \$1,335 have been applied to the sinking fund, and \$445 remained in the hands of the treasurer, applicable to the same object. The whole of the debts due to the Asylum for board, amount to \$9,660.81, but it is probable that a considerable part of this cannot be collected.

The whole amount of debts due from the corporation on the 31st December, 1830, was \$142,557.23, and there was due to it from the collector of the port, \$4,414.71, besides the above mentioned amount due for board. And the sinking fund amounted to \$23,761.66.

During the last year, the expenses of the establishment have been in some degree diminished.

The extent in which this Institution lessens the amount of human misery, by alleviating the sufferings of those who, in sickness and poverty, have no other refuge; and of the unfortunates, who under those mental maladies which are among the severest afflictions, pleads powerfully for a continuance of the protection and patronage which it has long experienced from our enlightened Legislature, of whose bounty the Governors are the almoners.

PETER AUGUSTUS JAY, *President.*

ROBERT I. MURRAY, *Secretary,*
February 8th, 1831.

IN ASSEMBLY,

February 22, 1831.

REPORT

Of the committee on the incorporation of religious and charitable societies, on the petition of sundry inhabitants of the city of New-York, praying for an act "to incorporate a charitable society for the education of poor children and relief of indigent persons, of the Jewish persuasion, in the city of New-York."

The standing committee on the incorporation of religious and charitable societies, to whom was referred the petition of sundry inhabitants of the city of New-York, praying for an act "to incorporate a charitable society for the education of poor children and relief of indigent persons, of the Jewish persuasion, in the city of New-York,"

RESPECTFULLY REPORT :

That the petitioners represent, that in 1828, an association was formed by a number of residents in the city of New-York, professing the Jewish faith, with the view of extending the blessings of education and industrious employment to orphan children, and of relieving the wants and assuaging the distresses of indigent persons generally among their own brethren : That they proceeded to raise both a permanent and disposable fund, to carry their object into effect : That \$3,000 has, since that time, been accumulated, and vested in public stock, and that the fund arising from the interest yielded by this stock, and from the other resources of the society, such as monthly contributions and fines, and which has varied from four to five hundred dollars per annum ; has been faithfully applied to the maintenance and education of several orphan children, and to
[A. No. 201.]

the relief of a great number of indigent individuals of all ages, sexes and conditions, who have, from time to time, made application for assistance, and been deemed proper objects by the managers of the society.

To extend the benevolent designs of their institution, to enlarge and facilitate its capacity for usefulness, and acquire more security and permanence to its operations, are the objects for which the petitioners ask for an act of incorporation.

Your committee are firmly persuaded that there are no objects, coming within the range of legislative enactment, that commend themselves more strongly to public approbation, than institutions having for their object the alleviation of distress and want ; institutions dictated by the purest feelings of philanthropy and benevolence : To promote by all necessary legislative aid the benevolent and laudable efforts now making in every section of the State, to improve the moral, intellectual and temporal condition of its citizens, we believe to be a duty no less imperative upon the Legislature, than that imposed upon individuals, by the obligations of society.

To advance the interests of education, and to soften the contingencies of the human condition, is in accordance with the enlightened spirit of the age ; and while the former is enjoined by all the considerations involved in the stability and duration of our free institutions ; the latter is no less so by all the dictates of humanity : Objects of such paramount importance, alike dear to the patriot and philanthropist, your committee believe are entitled to the favorable consideration and fostering care of the Legislature.

Under the influence of these considerations, and a conviction that the institution contemplated may become extensively useful in the midst of a vast and fluctuating population, your committee recommend the passage of the law asked for by the petitioners ; who professing the faith of that interesting race of people, to whose destiny sacred history has ascribed the fulfilment of Divine prophecy, stand among us unshackled by the distinctions that under other governments have made their lot grievous and oppressive.

No. 202.

IN ASSEMBLY,

February 16, 1831.

ANNUAL REPORT

**Of Zadock Hall, an Inspector of Beef and Pork for
the county of Cayuga.**

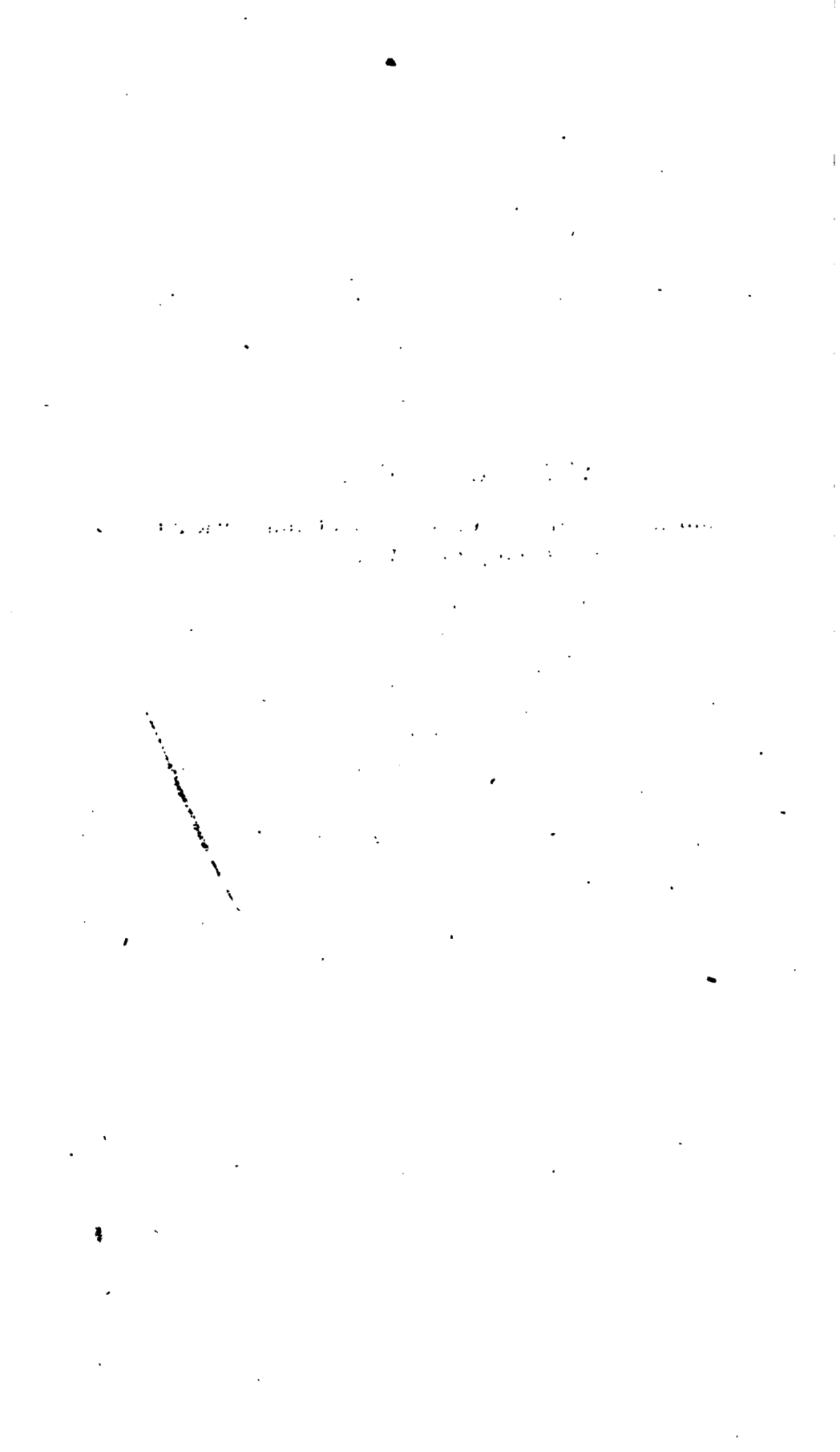
To the Honorable the Legislature of the State of New-York.

The report of Zadock Hall, one of the inspectors of beef and pork for Cayuga county, sheweth, that during the year ending on the 31st day of December last he inspected one hundred and thirty-eight barrels prime pork and forty-eight barrels of mess pork. The fees and emoluments for doing which he has received the sum of twenty-seven dollars and ninety cents.

ZADOCK HALL,
Inspector.

Auburn, Jan. 22, 1831.

[A. No. 202.]



IN ASSEMBLY,

February 23, 1831.

Message from the Governor.

TO THE ASSEMBLY.

GENTLEMEN,

I transmit to you a communication from the agent of the General Government, asking for privileges of water, to be taken from the canal for the use of the establishment at Watervliet.

E. T. THROOP.

Albany, February 22, 1831.



IN ASSEMBLY,

February 23, 1831.

REPORT

Of the committee of ways and means, to whom were referred various petitions of the inhabitants of the counties of Allegany, Steuben, and Orleans, relative to the laws regulating the assessment of taxes.

The committee of ways and means, to whom were referred various petitions from the inhabitants of the counties of Allegany, Steuben, and Orleans, relative to the laws regulating the assessment of taxes,

RESPECTFULLY REPORT :

That the object of the petitioners is to have that part of the personal property of non-residents which exist in securities received on the sale of lands in this State, bear its fair proportion of the burthen of taxation. It seems to your committee that the prayer of these petitioners ought to be granted.

The general principle of our tax laws is this, that all real and personal property within this State, shall as near as possible contribute its fair proportion for public expenditures.

Soon after the formation of our government, the State, as matter of public policy, and with a view to the settlement of the immense tracts of wild land in the west and north, disposed of the public domain in large parcels, which were originally or have subsequently become the property of non-residents. These non-residents have appointed agents and opened offices for the sale of those lands to the actual settler, and the ordinary mode pursued has been to enter into

contracts with such settlers, whereby the agents in behalf of the proprietors have agreed to execute conveyances of the land mentioned in the contracts, upon payment of the consideration money specified therein. Under these contracts the settlers have entered into occupation, and they afford the only evidence which a large portion of our population have of any interest in the soil which they have cleared, and upon which they have erected their dwellings and made extensive improvements. As the settlement of this part of our territory has extended, the actual value of the land has advanced, and these contracts furnish to the proprietors a most safe and profitable investment of their capital, producing at least seven per cent per annum, interest. The whole secured by the original lands which they owned, increased in value by the toil and enterprize of our citizens.

In connection, it should be recollected, that the only taxation imposed under the laws of this State, at this time, and the principal taxation which ever will be required, unless in a state of war, is to discharge the expenses of the towns and counties, annually arising from the internal police, the certain tendency of which is, to improve the value of the unoccupied land, and to give additional security to these contracts.

Your committee are unable to inform the House of the amount of this description of personal property within the State, but they believe it will exceed ten millions of dollars.

Your committee have prepared and asked leave to introduce a bill, making an amendment in the law relative to the assessment and collection of taxes, as they deem necessary to meet the views of the petitioners.

IN ASSEMBLY,

February 17, 1831.

REPORT

Of the select committee on the petition of the trustees of the village of Rochester.

Mr. Andrews, from the select committee to which was referred the petition of the trustees of the village of Rochester, praying for the passage of a law authorising them to raise additional firemen, and allow them certain privileges,

REPORTED—

That money has been appropriated by a vote of the inhabitants of Rochester, for the purchase of an additional fire engine, and their act vests no power in the village authorities to increase the firemen beyond a certain number limited by the act; under those circumstances the trustees ask to be empowered to raise additional firemen.

The petitioners also set forth that the duties of firemen in that village are extremely burdensome, and that unless further privileges are granted to them, in some degree equivalent to their labours and sacrifices, it will be impossible to ensure a result of the first importance to the interest and security of that populous village, a well organized, active and efficient fire department. And your committee ask leave to introduce a bill in accordance with the prayer of the petitioners.



IN ASSEMBLY,

February 23, 1831.

REPORT

Of the select committee on the petition of inhabitants of the county of Chautauque, relative to building a jail in that county.

Mr. Birdsall, from the select committee to whom was referred the petition of sundry inhabitants of the county of Chautauque, for an amendment of the law for building a new jail in that county,

REPORTED :

That at the last session of the legislature, an act was passed requiring the board of supervisors of the county of Chautauque, at their next annual meeting, to take into consideration the propriety of raising five thousand dollars for the purpose of building a new jail for that county. And if they should judge it necessary to build a new jail, to proceed and raise the money in five equal annual instalments, in the manner prescribed in the act.

The petitioners represent, that under this act, the board of supervisors decided against the erection of a new jail, and they ascribe that decision to considerations somewhat foreign to the actual condition of the old jail, or the necessity for, and the ability of the county to construct a new one. They, therefore, pray that the act of the last session may be revived and so amended as to make it imperative on the board to raise the monies in the manner prescribed therein.

From the representations of the petitioners, and the certificate of the clerk of the board of supervisors, it appears that several projects for the division of the county have been in agitation during the past year; that they have proceeded so far as to publish the requisite

notices of some of the applications for division to be made at the present session of the Legislature, and to circulate petitions for such division.

That at the annual meeting of the supervisors, in October last, of twenty-two members constituting the board, fourteen voted against the propriety of building a new jail, and eight in favor of it.

That of the fourteen members voting against it, the names of *four* have since appeared subscribed to notices of intended applications to the legislature for the division of the county of Chautauque, and that the name of another of the fourteen appears among the petitioners for the amendment of the law as above prayed for. It further appears, that before the vote above mentioned was taken by the board, the report or certificate of Elial T. Foote, the first judge, and two others of the judges of that county, was laid before them, stating that they had examined the jail, that there were not a sufficient number of rooms to enable the jailor to comply with the law by keeping the prisoners apart in different classes, and that the jail was wholly insufficient for the safe keeping of the prisoners committed to it. And the petitioners aver that the jail was in truth wholly inadequate in both those respects from its decayed state and ill advised construction.

In view of these facts, it is that the petitioners ascribe the decision of the board of supervisors to considerations somewhat foreign to the simple question of the propriety of building a jail as submitted to them by the act.

Your committee have no reason to question the facts above stated, but how far they may justify the inferences made by the petitioners, the committee do not deem it necessary to decide. Your committee have supposed the true point of inquiry to be, whether there is an existing necessity for the construction of a new jail in the county of Chautauque.

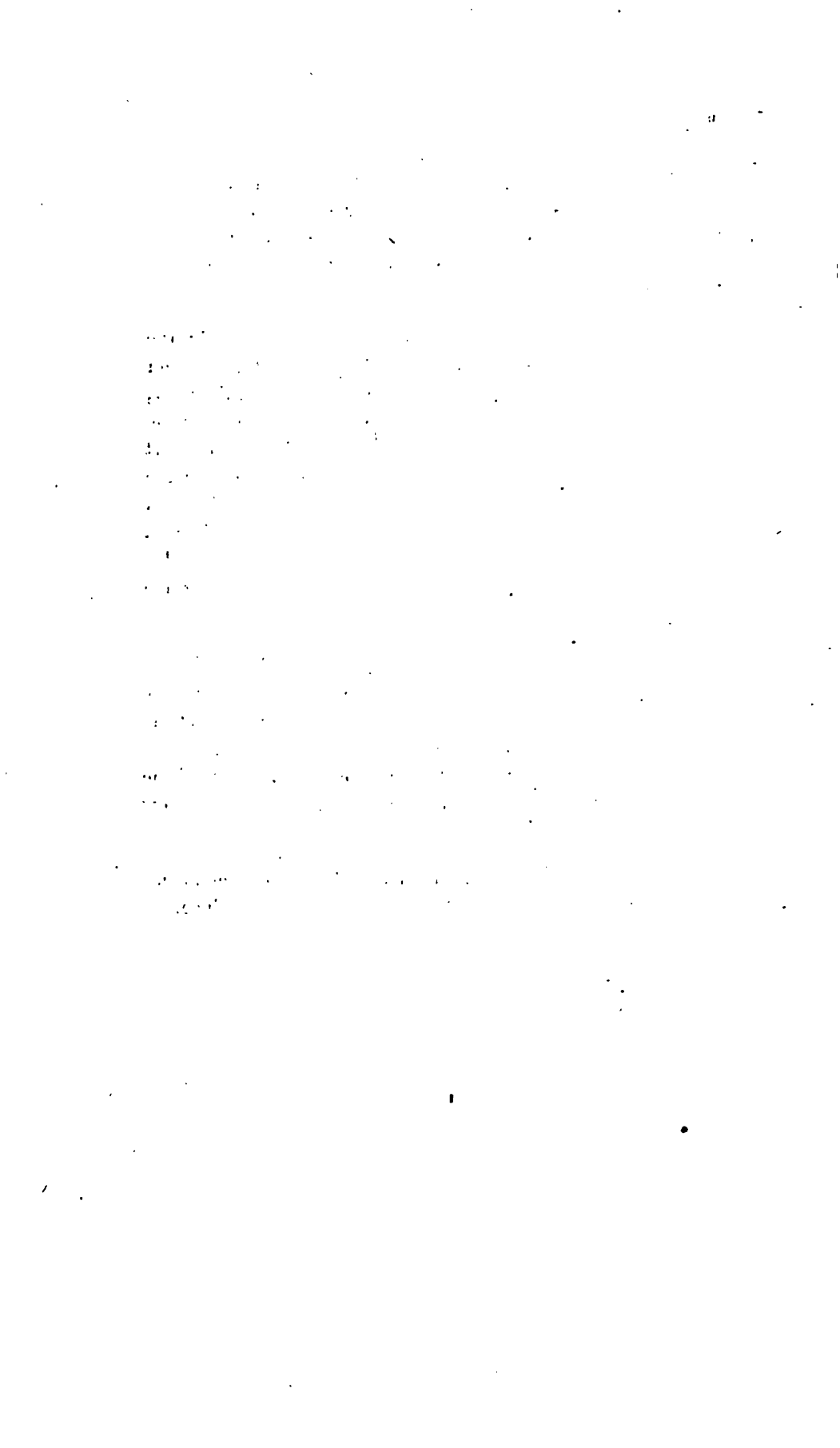
Upon this point, in addition to the representations of the petitioners, (whom your committee believe are about 1,300 in number,) and the certificate of the judges above set forth, they find accompanying the petition, a certified copy of a presentment of the grand jury of the county of Chautauque, under date of the 12th January, 1830, in which it is stated, that in pursuance of the charge of the court respecting the condition of the jail, they beg leave to report, that on

examination, the building is in their opinion insufficient for the purpose intended. That it is too small, that the timbers appear to be decayed, and they conclude by saying, "we give it as our opinion, that as soon as convenient there be measures taken to build a new jail." The jail in question, as your committee are informed, is a wood building, and has been standing twenty years.

The committee also find among the documents submitted by the petitioners, the semi-annual report of the inspectors of prisons for the county of Chautauque, for the current year, in which they say, that on the 18th day of January last, they visited, agreeably to the requirements of the Revised Statutes, the county prison, and report that they find it in a miserably weak condition, totally unfit for the safe keeping of the prisoners confined therein, and that it does not contain rooms enough to enable the jailor to keep the different grades of prisoners separately confined as the law requires. This report purports to have been signed by all the inspectors, being five in number.

Your committee are apprised of nothing to contradict or in any manner detract from the force of these documents and facts; they therefore feel themselves compelled to adopt the opinion, that the interests of public justice, both in reference to the securing of persons committed, and the proper distribution and classification of the prisoners confined, imperatively require the construction of a new jail in that county.

They have accordingly prepared a bill, containing the amendments asked for by the petitioners, which they ask leave to introduce.



IN ASSEMBLY,

February 23, 1831.

ADDITIONAL RETURN

Of the Inspector of Flour in the city of New-York.

To the Hon. the Speaker of the Assembly.

SIR—I have observed that a resolution has been offered by an Honorable member of the House of Assembly, to refer the annual report of the inspector of flour for the city of New-York to the Attorney-General, for his opinion, whether the inspector has not incurred a penalty for making an imperfect return.

In my annual report, I stated the quantity, the quality and the value of the flour inspected, with the number of barrels light and undertared, recapitulating, particularly, the number of barrels, half barrels and hogsheds; and then stated the fees paid for boring, inspecting, plugging and branding each barrel, half barrel and hogsheds; and for weighing and ascertaining the light weight and undertare of each barrel. I stated further, the number of persons engaged in the inspection, and the expenses otherwise incurred and paid on account of the office: I gave, as I thought, a distinct view of the compensation paid for each service.

In doing this, it never entered my mind that I was guilty either of disrespect to the Honorable the Legislature, or of neglect of my official duty. Since the resolution was offered, I have had an interview with the honorable mover thereof, and upon inquiring in what particular I was supposed to have failed in making a perfect return, I found it was for not summing up the whole amount. Acknowledging the deference due the Honorable the Legislature, I pray the privilege of adding to my former report—That the whole amount of fees derived from the office, when received, will be \$13,422.60. Out of this sum, it is to be borne in mind, that the assistant inspectors, of whom there

are always nine, and sometimes twelve employed, receive the compensation for their services; and the sum of \$1,850 has been paid and laid out on account of the office, for rent, fuel, &c. as stated in my annual report. The amount received for inspection in the county of Kings is \$142.50, the whole of which is paid to the deputy.

RICHARD M'CARTY,

Flour Insp'r for city and county of N. Y.

Albany, Feb. 22, 1831.

IN ASSEMBLY,

February 19, 1831.

REPORT

Of the select committee on the petition of inhabitants of the county of Lewis.

Mr. Budd, from the select committee to which was referred the petition of sundry inhabitants of the county of Lewis, praying that a tax may be levied for the construction of a certain road,

REPORTED—

That they have had the same under consideration, and from the facts therein set forth, it is evident that the road asked for will have a beneficial effect, and accommodate a section of country which, at present, from its remote location from public roads, is suffering for the want of such a thoroughfare, in order that the inhabitants may carry on to advantage their necessary avocations.

As the application appears unanimous, and will, if carried into effect, infuse new life and vigor into an infant settlement which has sprung up under various privations, the committee have prepared a bill, which they ask leave to present.



IN ASSEMBLY,

February 19, 1831.

REPORT

Of the committee on colleges, academies and common schools, on the petition of the trustees of school-districts No. 10 and 13, in the town of Sweden, praying for a law authorising the sale of a school-house, and the remonstrance against the same.

Mr. Morehouse, from the committee on colleges, academies and common schools, to which was referred the petition of the trustees of school districts Nos. 10 and 13, in the town of Sweden, praying for a law to authorise the sale of a school-house, and the remonstrance of sundry inhabitants of said town against the same,

REPORTED—

It appears from the petition, that district No. 13 was in 1829 set off from district No. 10. The petitioners suggest that it is indispensably necessary that the school-house and site, situate in No. 10, should be sold for the mutual benefit of the two districts. They do not assign any reason for the necessity which they conceive exists for such a procedure. It would be charitable to presume that the commissioners, at the time of forming the new district, ascertained and determined the amount justly due to it as its proportion of the value of the school-house and other property, belonging to the former district, at the time of the division, and also that the trustees of the district retaining the school-house, caused the same to be levied and collected according to the provisions of the Revised Statutes. Such presumption, however, is incompatible with the idea of the districts still having a joint interest in the property which the peti-

tioners ask leave to sell ; and in the absence of all information upon the subject, the committee are left to infer that the commissioners or trustees, or both, have hitherto omitted their respective duties, from considerations which the petitioners have not thought proper to disclose or excuse.

The remonstrants state that the site of the school-house in district No. 10, was originally a donation from an individual. That the first Baptist society of the village of Brockport, erected a meeting-house in rear of the school-house, from assurances that the latter would be removed and the lot appropriated as a yard and entrance to their church, thereby beautifying and improving the village, and gratifying the wishes of the benevolent donor of the land to the school-district. That such expectation was indulged and confided in, is evident from the fact that the church is accessible by no other avenue. It appears that the trustees of the Baptist society have endeavored to purchase the lot, and as is alleged, upon terms satisfactory to a majority of the trustees of the district. The minority are accused of unfriendly feelings towards the society, and of aiding in a design of extorting from them an exorbitant sum for the premises, or of precluding them from the enjoyment of their place of worship, as a probable alternative. The committee trust that the jealousy and apprehension entertained by the remonstrants, in that particular is groundless.

The act passed at the present session concerning district school-houses, will enable the inhabitants of district No. 10, to change the site of their school-house, and direct the sale of the present one. The destination of the proceeds commanded by the act, is the only legitimate one ; and the committee therefore feel themselves relieved from a more minute examination of the merits and demerits of the application. They cannot forbear however, in conclusion, to express their hope and confidence, that the wisdom of that law, in requiring great unanimity to enable the petitioners to avail themselves of its provisions, will be exemplified in its application to their case, if applied at all ; and that, though more particularly designed to guard against improvident change, will, in the deliberation which it invokes, be found promotive of a spirit of justice and liberality towards the remonstrants.

The committee ask leave to introduce the following resolution :

Resolved, That the prayer of the petitioners ought not to be granted.

IN ASSEMBLY,

February 18, 1831.

ANNUAL REPORT

**Of Howard A. Simons, an Inspector of Sole Leather
for the city and county of New-York.**

To the Honorable the Legislature of the State of New-York.

Agreeably to the inspection law of the state of New-York, the undersigned, one of the inspectors of sole leather for the city and county of New-York, respectfully submits the following report of leather inspected by him during the year ending 31st January, 1831.

116,621 sides, average weight $14\frac{1}{4}$ lbs. the side, total 1,661,849 lbs;
average value at $20\frac{1}{4}$ cents per pound, .. \$340,679 04

Fees for inspection at 2 cents per side,..... \$2,332 42

Expenses, 1,232 09

Nett proceeds, \$1,100 33

HOWARD A. SIMONS,
Inspector.

New-York, Feb. 1, 1831.



IN ASSEMBLY,

February 25, 1831.

REPORT

Of the committee on State Prisons.

The committee on state prisons submit the following report.

The committee have examined the report of the Inspectors of the Mount-Pleasant state prison, communicated to the legislature on the 5th January last. This document exhibits the receipts and expenditures for the year ending 30th October, 1830—points out the wants of the institution for the current year, and the appropriation that will be required to satisfy them. The whole expense for subsistence of the prisoners, including food, clothing, bedding, medical attendance and pay of officers, is embraced in the following estimates, to wit :

Salary of agent and keeper,.....	\$1,750 00
“ of deputy-keeper,.....	1,000 00
“ of clerk,.....	800 00
“ of physician,.....	500 00
“ of chaplain,.....	300 00
20 assistant-keepers, at \$550 each,.....	11,000 00
24 guards, at \$300 each,.....	7,200 00
Rations for 800 convicts, 365 days,.....	23,065 00
Support of female convicts in the city of New-York, average number 43, at \$100 each per year;.....	4,300 00
6,075 pounds of wool, being about the same quantity used last year, at 50 cents,.....	3,037 50
6,300 pounds cotton yarn, at 25 cents,.....	1,575 00

Carried forward,.....\$

Brought forward,.....\$	
1,350 pairs shoes, at \$1.12½,.....	1,518 75
125 pounds sewing thread, at 87½ cents,.....	109 37½
200 bibles, at 70 cents,.....	140 00
200 bunks for cells, at 37½ cents,	75 00
900 blankets, at \$1.50	1,350 00
100 whitewash brushes, at 31 cents,	31 00
20 doz. brooms, at \$1.50.....	30 00
50 doz. buckskin mittens, at \$3.50,.....	175 00
300 tons coal, at \$6,	1,800 00
Half ton German steel,.....	140 00
Two tons cast-steel, at \$400,	800 00
450 casks of powder, at \$3.28,	1,521 00
500 pounds refined borax, at 25 cents,	125 00
810 gallons sperm oil, at 70 cents,.....	567 00
500 fire brick, at 6 cents,	30 00
Hospital stores,	325 00
Convicts discharged,	225 00
Hay and grain for oxen,.....	245 00
Freight and cartage,	150 00
Stationary, postage and incidental charges,	250 00

\$64,134 62½

Receipts from earnings of prisoners, estimated

this year, at..... \$34,000

Appropriation made this session,

5,000

39,000 00

This amount it is believed will be required for the general support of the prison,

\$25,134 62½

The legislature, during the last session, authorized the addition of 200 cells to this prison; and appropriated \$10,000 towards that object. Considerable progress has been made in their erection, but a further sum will be required to complete them. The amount to be disbursed for this purpose is as follows:

13 tons iron, at \$90,	\$1,170 00
Half ton east-steel,	200 00
60 scaffold poles, at \$2,	120 00
30 small do at \$1,.....	30 00

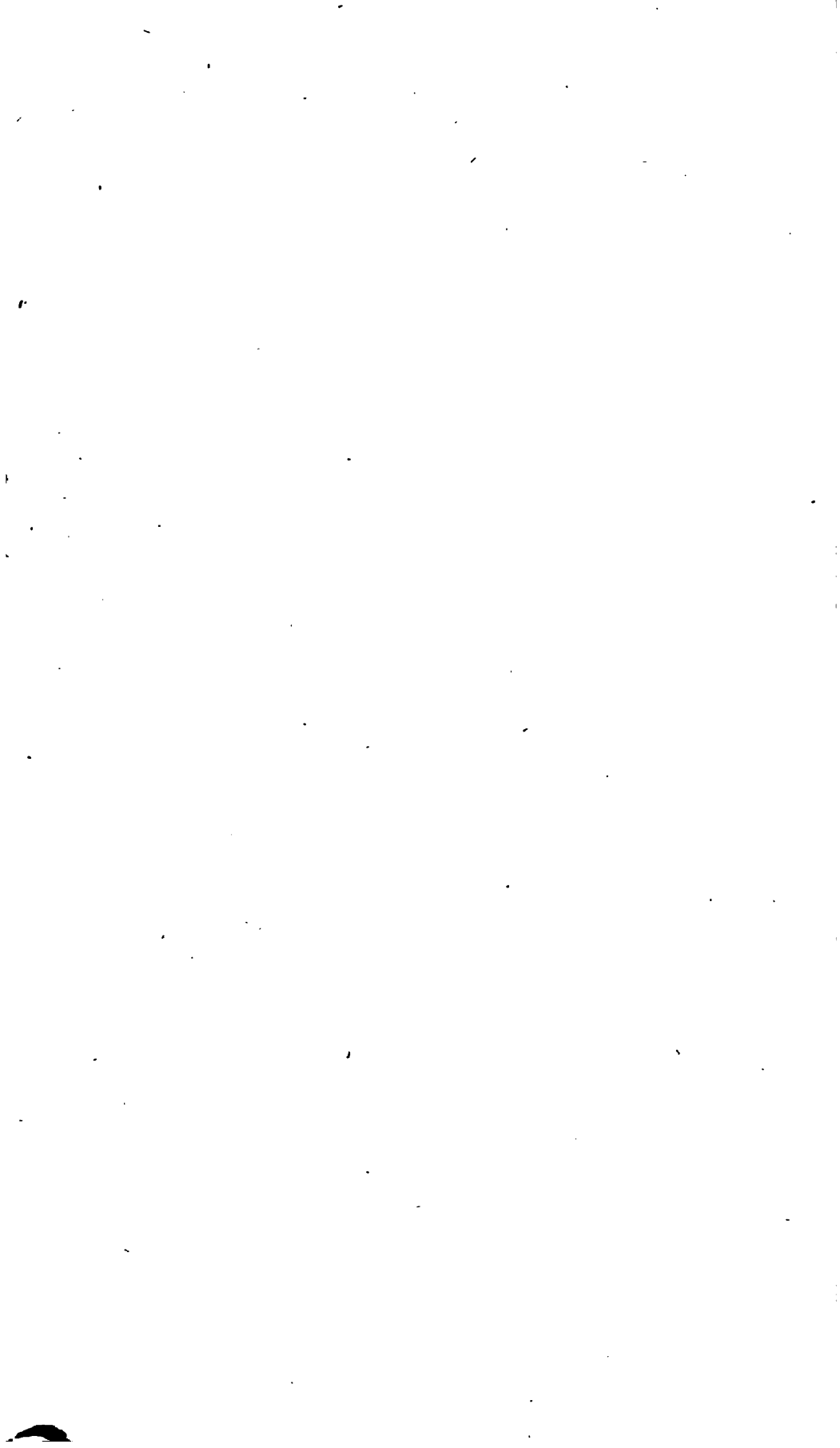
Carried forward,.....\$

Brought forward,.....\$	
750 scaffold plank,	375 00
600 pounds of rope,	90 00
Tools for cutting stone, mason's tools, and keeping same in repair,	400 00
Lath, nails and hair plastering, 1,400 yards,	260 00
Mason's work,	170 00
1,500 pounds of lead,	90 00
Painting iron work,	200 00
Hooks and brass rollers,	90 00
Drills, oil, wedges and spikes,	500 00
13,450 feet heavy timber,	201 75
750 pine plank,	187 25
650 hemlock boards,	65 00
500 hemlock plank,	180 00
141,000 shingles, at 4 cents,	564 00
24 boxes glass, at \$3,	72 00
	<hr/>
	\$4,765 00
	<hr/>

RECAPITULATION.

For general support,	\$25,134 62
To complete cells,	4,765 00
	<hr/>
Whole amount to be appropriated,	\$29,899 62
	<hr/>

The above statements are furnished by the agent of the prison, with an assurance of their accuracy, and on this point your committee are unwilling to entertain a doubt. They have therefore prepared a bill, and ask leave to introduce the same.



IN ASSEMBLY,

February 25, 1831,

REPORT

**Of the committee on claims, on the petition of
Joseph Lamb.**

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Joseph Lamb,

REPORTED—

The petitioner is the husband of Martha, the daughter of John Thompson, who was a soldier in the revolutionary army, and he prays for a grant of the bounty lands to which Thompson was entitled. Thompson's name is not in the balloting book, nor in the returns made by the officers, or in that made by Connelly, and of course no patent has been issued to him. But in Neely's book, his name appears as a private in Capt. Hallet's company in Col. Van Cortlandt's regiment, and that he enlisted on the 12th December, 1776, and died 26th February, 1777. Besides this book and Wallace's book, hereinafter mentioned, there is no corroborative evidence of his enlistment, except the deposition of Elizabeth Lewis, taken in 1812, who says that she was the wife of Thompson, and that he enlisted "for and during the continuance of the war." This certainly is not such evidence as should be required, or as is usually furnished in such cases. The enlisting officers, or some other officers, or some companions of the soldier, have usually been produced to prove the fact of enlistment and the term for which it was made. Independent of the objections that Mrs. Lewis' affidavit is extra judicial, and that she was an interested witness on account of her right of dower, the statement of an old lady on such a point as the term of the enlistment, can afford very little satisfaction.

In Neely's book, the name of John Thompson is entered without designating the term of his enlistment; the proper place in the column for that purpose being entirely blank. Above it is the name of a soldier who enlisted for nine months, and which is so stated. Above that are the names of soldiers, opposite to whose names is the letter W, indicating that they enlisted for during the war. It is urged in behalf of the petitioner, that there are many instances in this book where the letter W is not entered opposite to the names of the soldiers, who have notwithstanding received patents. This argument would have more weight, if this book had been before the Commissioners of the Land-Office and had been their guide in issuing patents, which was not the case. There are however some instances, although they are few, in which patents have *not* been issued to soldiers, opposite to whose names there is no letter W. Considering that the petitioner is bound to furnish proof affirmatively of the term of enlistment, and that he is called on to repel the presumption, arising from the name of Thompson not being found in the original returns or in the balloting book, your committee are not satisfied by this ambiguous evidence derived from Neely's book.

There has also been produced before your committee, a manuscript book, heretofore belonging to Benjamin Wallace, purporting to be a copy of the register of the army, in which the name of John Thompson is found, entered as in Neely's book, except that the letter W is written opposite to his name. But without stopping to inquire what degree of authority is to be given to Wallace's book, it is sufficient to remark, that the letter W, in this instance, is in a different ink from the name and other writing near it, and from its appearance excites doubts of its being an original entry. These doubts are strengthened by finding that Wallace's book is in other respects a copy of Neely's book, in which the letter W. is wanting.

Although the case is certainly not free from difficulty, yet your committee, after having bestowed much time and consideration on it, can not say that the evidence is so satisfactory to their minds as to justify them in reporting a bill for the relief of the petitioner. The committee on claims in the House in 1828, seem to entertain the same doubt, as did the committee on claims in the Senate, in 1829. Other committees have reported in favor of the claim, and bills have passed this House to satisfy it. Your present committee

have conceived it their duty to present all the facts and circumstances, which they deem important to a decision.

In the view which they entertain, they feel constrained to recommend to the House the adoption of the following resolution :

Resolved, That the prayer of the petition of Joseph Lamb be denied.



IN ASSEMBLY,

February 21, 1831.

REPORT

Of the select committee on the petition of the Redhook and Saugerties ferry company.

Mr. Van Buren, from the select committee to which was referred the petition of the Redhook and Saugerties ferry company, and of the inhabitants of the towns of Redhook and Saugerties,

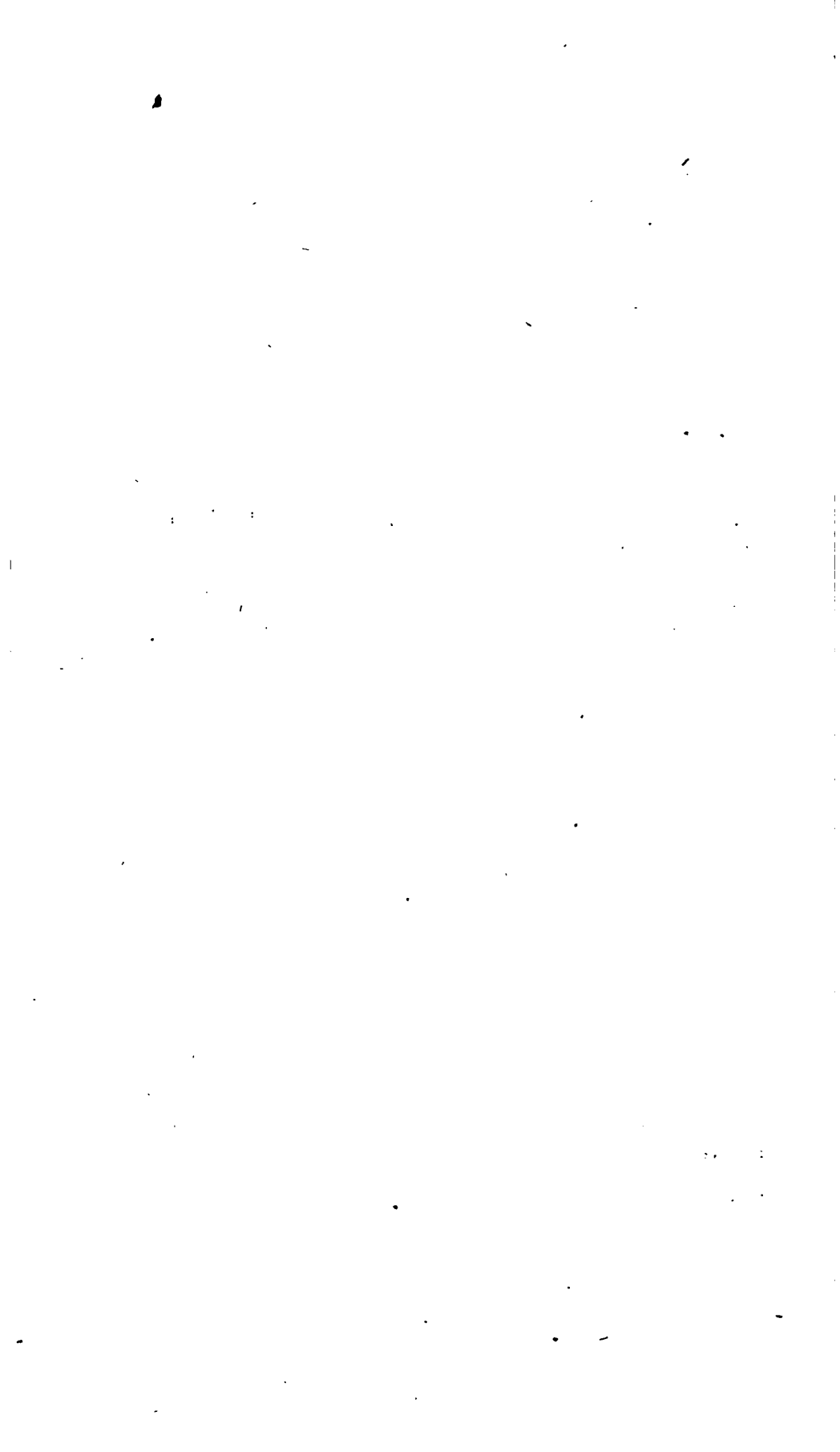
REPORTED—

That the committee are satisfied, from the representation of the said petitioners, that since the incorporation of the said company, they have established, kept and maintained between the points contemplated in their charter, a good and efficient ferry, and that the same has been faithfully and regularly attended, to the great convenience of all interested.

That although the same has been thus far maintained at a great loss to the said company, there is a prospect that it may eventually be productive and profitable.

The petitioners pray, that if hereafter said ferry shall, through their exertions and expense, become profitable and productive, they may enjoy without disturbance the fruits of their labor.

The committee think the prayer of the company reasonable, and ask leave to introduce a bill.



IN ASSEMBLY,

February 25, 1831.

REMONSTRANCE

Of the Trustees of the Albany Water-Works Company.

To the Honorable the Legislature of the State of New-York.

The memorial of the trustees of the Albany water-works company,

RESPECTFULLY REPRESENTS:

That the memorialists have obtained a printed copy of the report of a select committee of the Honorable the Assembly, on the petition of Isaiah Townsend and others, for the incorporation of a second company to supply the city of Albany with pure and wholesome water, and also of a bill accompanying the said report. The memorialists, considering the allegations in the said report, and the principles and provisions of the said bill as conflicting with the faith of the State pledged to the memorialists by their act of incorporation, beg leave respectfully to submit the following observations upon those subjects to the Honorable the Legislature.

It is true, as stated in the aforesaid report, that the memorialists were incorporated in the year one thousand eight hundred and two, as a company, for the purpose of supplying the city of Albany with pure and wholesome water, and that the said company has been in operation ever since. It is also true, that an ample supply of good water has been brought under the direction of the company into a large reservoir, situate adjacent to the east side of Eagle-street, from which the citizens residing on the east side of Eagle-street can, if they desire it, be regularly furnished with water. The improvements which the memorialists have at a great expense made to their

works during the last season, will enable them to supply the citizens residing west of Eagle-street, as far up as the range of houses occupied by Messrs. Cruttenden and others, and they are ready to do so whenever those citizens request it, and signify their willingness to contribute reasonably towards the additional expense to be incurred for their particular accommodation.

The memorialists are prepared and hereby offer to show to the Honorable the Legislature, in a satisfactory manner, that they have not during the whole time since their incorporation, realized a yearly income of four per cent on their expenditures.

The committee express in their said report, a settled opinion that your memorialists have no vested exclusive privileges which the incorporation of a second company, for similar purposes, will in any degree impair.

Upon this point the memorialists beg leave to submit to the consideration of the Honorable the Legislature a few remarks.

The incorporation of private companies, to accomplish important public purposes, must be presumed to contemplate two leading objects,

The one, the promotion of the public good at the expense of the stockholders, and the other, to secure to the stockholders a reasonable indemnity for their expenditures by means of the profits which may arise from their operations. In this view of the subject the memorialists apprehend that every such act of incorporation by necessary implication pledges the faith of the State, that it will do no act to defeat the corporation of a full and just remuneration for the hazard and expense of their operations, so far as that remuneration can be obtained by a faithful performance of its duties and an uninterrupted enjoyment of its privileges, according to the plain intent of their charter. Any other construction would destroy all confidence in the faith due to legislative acts, which is the only security the corporation has for the consideration or inducement to their carrying into effect the objects of the act of incorporation; and this security, a just and enlightened government will always hold sacred.

It is true that the act in question contains no express exclusive grant to the memorialists, but they respectfully ask whether from its nature and objects an implication is not obvious and indisputable, that their corporate privileges were not to be interfered with so long

as they faithfully fulfil to the utmost of their power their engagements with the public, until they are fully remunerated.

The bounds of the city extend several miles west from the Hudson river, and when their act of incorporation passed, there was scarcely a house erected west of Eagle-street. The report of the committee admits that the memorialists have furnished an ample supply of water for the lower part of the city and a portion of the inhabitants residing east of Eagle-street; but alleges that the inhabitants living west of Eagle-street remain unsupplied.

Hence it appears that your memorialists have supplied with water what constituted the compact and settled parts of the city at the date of their charter, and that the destitute parts are those west of Eagle-street; and yet the bill reported by the committee, embraces the range of the whole city. Why is this? Surely not for the accommodation of the parts which have an ample supply? Then for what purpose is it? To enable the second company to extend their works into the parts already supplied? The memorialists appeal to the justice of the Honorable the Legislature, whether the incorporation of a second company, for that purpose, would be consistent with good faith, inasmuch as the only reasons why the water has not been brought to the west side of Eagle-street are, that their fountain was not situate high enough to admit of it without a heavy extra expense, while the petitioners for a new incorporation have uniformly declined to enter into any arrangement with the memorialists to secure to them a reasonable remuneration for such expense.

Thus circumstanced, the memorialists respectfully remonstrate against the aforesaid bill, reported by the committee, and repose themselves with confidence upon the justice of the Honorable the Legislature so to modify the said bill as to confine the operations of the petitioners, in case of their incorporation, to those parts of the city which are situate west of Eagle-street, which alone remain unsupplied with water.

By order of the Board of Trustees.

JOHN MEADS, *President.*



IN ASSEMBLY,

February 22, 1831.

REPORT

Of the committee on the judiciary, on the petition of inhabitants of the town of Porter, Niagara county.

Mr. Robinson, from the committee on the judiciary, to which was referred the petition of sundry inhabitants of the town of Porter, in the county of Niagara,

REPORTED—

That from the petition and accompanying documents, it appears, that the last annual town-meeting of that town was dissolved without appointing a time and place for the next annual meeting, and without canvassing the votes given for town officers, and that consequently there was no election of a justice of the peace duly declared in the place of one whose term of office expired on the 31st day of December last.

It further appears, that before the town-meeting was dissolved, a considerable majority of the votes of the voters who attended the meeting, had been received; and that on the 2d day of November last, the votes were canvassed by the three justices of the peace of that town, and that the names of 116 persons who voted at the meeting, were on the poll list, and that 113 votes were given for Ashbel G. Hinman, for the office of justice of the peace.

The prayer of the petition is, that a law may be passed declaring the canvass legal, and fixing a time and place for the holding of the next annual town-meeting of that town.

Among other formidable objections, there is an insuperable one in the minds of your committee to the passage of a law declaring the

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canvass to be legal, as the votes of all the voters present were not received at the time the town-meeting was dissolved; voters may have afterwards attended for the purpose of giving in their votes, and been prevented therefrom by the dissolution of the meeting. In fact there was not an election or choice of town officers, or of a justice of the peace of said town at the last annual town-meeting, and a law declaring the canvass legal, would, in effect, be a legislative appointment of a justice of the peace, and not the confirmation of an election by the people.

By the Revised Statutes, the inhabitants of the several towns in this State at their last annual town-meetings were authorised to fix the time and place of holding their future town meetings, and the last annual town-meeting of the town of Porter, having been dissolved without exercising this power, a special law becomes necessary. A bill therefore, fixing the time and place of holding the next annual town-meeting of the town of Porter, has been prepared by your committee, and leave is now asked to introduce the same.

IN ASSEMBLY,

February 22, 1831.

REPORT

**Of the committee on expiring laws, on the petition
of Nicho Allen.**

Mr. Thorn, from the committee on expiring laws, to whom was referred the petition of Nicho Allen, for a law establishing a ferry across Lake Champlain, at Cumberland Head,

REPORTED :

That in 1810 a law was passed establishing a ferry across said lake, at Cumberland Head, granting to Russell Ransom, the exclusive right of keeping and maintaining said ferry, for ten years, which act was revived in 1820, and expired by its own limitation on the first of September, 1830 : That in July, 1830, the said Nicho Allen became seized in fee simple of the farm, ferry-house, wharf and ferry by purchase, of and from one Luther Hager, who derived title thereto from said Ransom, as appears by a certified copy of the deeds of conveyance, annexed to the petition ; and said Allen prays a revival of said act to him and his assigns.

The committee are of opinion that the prayer is reasonable and proper, and have directed their chairman to ask leave to introduce a bill.



IN ASSEMBLY,

February 23, 1831.

REPORT

**Of the select committee, on the petition of the court
and bar of Allegany county.**

Mr. Ashley, from the select committee, to whom was referred the petition of the court and bar of Allegany county,

REPORTED:—

That they have had said petition under consideration, and it appears as well from that as from other facts within the knowledge of your committee, that the present jail limits of said county extend about two miles on the main road, and so very narrow, that they do not extend back as far as the farms lying on said road; and that it being mostly an agricultural county, those unfortunate persons confined upon the limits are deprived of the opportunity of getting employment, and of course of the means of subsistence.

The petitioners also allege that they are about erecting a county poor-house in said county, and that they have purchased a farm, upon which they intend to locate the same; and that it would be a matter of convenience to have extended the limits so as to include said farm, and that an extension so as to include lots No. 26, 27, 28, 29, 30, 35, 36, 37, 38 and 39, would effect this object, and have the limits in the form of a parallelogram, measuring 300 chains on one side, and 120 on the other. They therefore pray the passage of a law authorising such extension. Believing that the cause of justice and humanity would be promoted by granting the prayer of the petitioners, your committee have directed their chairman to ask leave to introduce a bill for that purpose.



IN ASSEMBLY

February

REPORT

Of the select committee on the petition of the
and her of Amherst

County

Mr. Ashley, from the select committee, on the petition of the
petition of the court and her of Amherst

REPORTED:

That they have had said petition under consideration,
years as well from that as from the present mode of
your committee, that the present mode of the different
about two miles on the main street, the supervisors for the
not extend back as far as the petitioners must hand their
very mostly an agricultural town, to be presented to the
and upon the limits are dependent, want of a proper ex-
agement, and of course of the real value; and

that and unjust, and for
The petitioners on the board of supervi-

to said county, and they intend to locate
inconvenience to have an extension of the
that an extension of the board of town au-
77, 88 and 89, would be a great benefit
of the town. They have passed a bill, and directed their
the same.



IN ASSEMBLY,

February 25, 1831.

REPORT

**Relative to a board of Town Auditors, in the county
of Yates.**

The select committee, to whom was referred the petition of the supervisors of the county of Yates, praying for a law to authorise a board of town auditors, beg leave to

REPORT:

The committee have had the subject matter under consideration, and have ascertained that great evils exist in the present mode of auditing town accounts, viz: The town officers from the different towns in the county must attend the board of supervisors for the purpose of getting their accounts audited, or they must hand their accounts over to the supervisor of their town, to be presented to the board for examination, and in many cases for want of a proper explanation, their demands are reduced below their real value; and in some instances their charges are fraudulent and unjust, and for want of proper information, they impose on the board of supervisors.

The committee are clearly of opinion that a board of town auditors would correct all the evils that now exist, inasmuch as the town officers would be present to explain and satisfy the town board of the justice of their respective claims.

The committee have therefore prepared a bill, and directed their chairman to ask for leave to introduce the same.



IN ASSEMBLY,

February 26, 1831.

REPORT

Of the committee on Medical Societies and Colleges,
on the Petition of the Medical Society of the city
of New-York.

The standing committee on Medical Societies and Colleges, to whom was referred the petition of the Medical Society of the city of New-York, for an alteration in the law regulating medical education,

RESPECTFULLY REPORT :

That the petition from the Medical Society of the county of New-York, and the draft of an "*Act*," accompanying the same, contemplate the election by said society of a Board of Examiners of not less than twenty-one persons, from among the licensed practitioners of medicine and surgery in that city. This Board is to be styled, "*The Faculty of Medicine and Surgery in the city of New-York.*" This Faculty is to have the power to elect a "*Dean*" from among their number, with the usual authority of a chairman, and a "*Register*" to perform the ordinary duties of a secretary. And it further contemplates that the said Faculty shall possess the power to enact by-laws for its own government, and the general regulations of teaching medicine and surgery, subject, however, to the approval of the Medical Society of the county of New-York.

And finally, it proposes to invest the said Faculty with power of conferring the "degree of Doctor of Medicine and Surgery," by their diploma; and this diploma is to be considered a valid license to practice physic and surgery in this State.

From these extracts taken literally from the draft of the proposed bill, it will at once be conceded, that the establishment of a second Medical College in the city of New-York, would be the inevitable consequences. The committee do not think that the period for this, has yet arrived. The Medical College now established there, have not had, until the present season, more than an average number of one hundred and ten or twenty students.

But stronger objections, even than this, will be found on examination. The Faculty is to be appointed by the licensed practitioners in the city of New-York, a numerous and respectable, though necessarily fluctuating body, the majority, often young, and inexperienced, and almost constantly subject to change. • Under circumstances like these, however respectable the body, your committee are of the opinion, it would not be wise to invest them with a responsibility so important, and so deeply interwoven with the health and safety of the good people of this State.

At present the Regents only, appoint the medical professorships, and in a manner which is certainly better calculated to procure the best talent for those important stations. The Regents of the University, at present, also confer the degree of " Doctor of Medicine" on medical graduates and practitioners. But by the act in question, another body is to be constituted with the same powers, and certainly both cannot be proper or consonant with that uniformity of proceeding which is the pride of our literary and common school system.

Your committee cannot see any good reason why, if this privilege be given to the Medical Society of the county of New-York, it should not be extended to every other county in the State; and thus we might have fifty medical colleges, to the destruction of all improvement in medical education.

The experience of many years has fully proved, that two medical institutions cannot flourish in the city of New-York, at the same time. The Medical School of Philadelphia, profits by the dissensions, while our own citizens are deprived of the pecuniary and scientific benefits, to be derived from a flourishing medical school, in our commercial capitol.

At the present time, when there is every prospect of the increasing stability, and reputation of the New-York Medical College,

the committee are unwilling to agree to the prayer of the petitioners, and therefore beg leave to offer the following resolution :

Resolved, That the prayer of the petitioners ought not to be granted, and that they have leave to withdraw the same.



The applicants for the North American Trust Company, whose names are contained in the bill reported by the bank committee in the Assembly, beg leave respectfully to submit to the consideration of the members of the Legislature, the subjoined extracts and facts from the petition of the applicants.

**TO THE HONORABLE THE LEGISLATURE OF THE
STATE OF NEW-YORK.**

The petition of the subscribers, inhabitants of the city of New-York and other parts of the State,

HUMBLY REPRESENTS :

That the incorporation of a company in the city of New-York, with an extensive capital, which shall be loaned out and well secured upon real estate for the purpose of receiving trust moneys, and paying an interest on the same, and for the purpose of managing trust estates placed under the direction of trustees, whose character for ability and integrity will inspire and attach public confidence, will be highly beneficial to the interests of the city and state at large, and afford a fair remuneration to stockholders and others who may place their funds in such institution.

The present period is peculiarly favorable to the introduction of foreign capital into the United States ; the political agitations of Europe, and the consequent apprehension of the stability of monied investments, lead European capitalists to scrutinize with more than ordinary vigilance at home, and to seek other places and other objects of investment, where permanency and security seem to be more certain.

And while the city of New-York presents to such capitalists equal if not superior advantages to any part of the United States, in which to obtain the required security and confidence, the various parts of the country immediately adjacent and connected with the city, open an extensive field for loaning a large amount of money upon real estate of the most ample and unquestionable security.

It will not escape the reflection of the most casual observer, that the introduction of European funds into the city, and thence distributed through an appropriate channel, into the remote parts of the state, would not only have a direct influence upon the growth and prosperity of its towns and villages, but would be seen and felt in the increased enterprise of its citizens, and in a vigorous activity in every department of domestic industry.

Long loans secured upon real estate, are to the farming interests what banking accommodations are to the merchant. The operations of the former are slow and certain, while those of the latter are rapid and hazardous. Long loans are therefore adapted to the interests of the one, and short loans to the interests of the other.

Your petitioners therefore pray that your honorable body will incorporate a company, to be styled the "North American Trust Company," to be located in the city of New-York, for the purposes before mentioned.

The applicants also subjoin extracts from the report of the standing committee on banks and insurance companies, accompanying the bill introduced at the last session, to incorporate the New-York Life Insurance and Trust Company.

"Whatever offers motives to economy, industry and care, among our citizens, your committee esteem worthy of the countenance and support of the Legislature of this State, and such motives your committee are of opinion would be offered by the establishment, on a basis which would secure public confidence, of a company for the insurance of lives and granting annuities. Institutions for these purposes have been in operation in Europe for about a century, and are acknowledged by eminent writers to have contributed, when placed in safe hands, and conducted on proper principles, to the happiness of those countries in which they have been established.

"The insurance of a life, is a contract to pay to the representative of the insured, a certain sum, in consideration of the insured paying immediately, or annually to the company insuring, a smaller sum.—What these sums ought to be, is not a matter of chance, but is determined by fixed principles, and by observation made on the duration of human life in all countries. On the same principles and observation is determined, what annually, for the remainder of an individual's life, ought to be paid him by a company granting the annuity, in consideration of a fixed sum paid down by the annuitant, or person to whom the annuity is granted.

"It will readily be perceived of what general utility and universal interest, must an institution be, which proposes to secure to a family the comforts of independence, when deprived of its support by the death of the parent; to disencumber estates of dower, and facilitate its division among heirs, and to provide greater comforts for old age, in those instances where narrow circumstances preclude the hope of a sufficiency to meet the wants of advancing years."

"A company for the insurance of lives and granting annuities, has for a long time existed in Philadelphia; its business though small at first, is understood gradually to have increased, as the citizens of that state have become better acquainted with the advantages it offers to the public; nor is the city of Albany without a striking instance of the utility of that institution, in the independence and comfort it secured to two of its aged citizens, one of whom still lives to enjoy from its funds a considerable annuity.

"As closely connected with insurance on lives and granting annuities, the petitioners pray, that a power may be granted them of receiving money in trust, to be applied according to the direction of the trust.

"The grantor of a trust is he who places money in the hands of a company or individual, to be managed by them, but to be paid according to his direction; the cestui que trust, is he for whose use it is placed there, and to whom the interest is to be paid, and finally the capital. The company or individual is denominated the trustee.

"To all persons connected with our court of chancery, the suits without number which originate every year in the fraud, negligence or misconduct of trustees, are subjects of surprise and regret; nor will instances be wanting within the recollection of almost every member of the Legislature, of the loss of property from some one or other of these causes; part arising from the badly requited confidence reposed in unworthy individuals; part from the facility with which trustees listen to the solicitation of the interested; part from the circumstance that executors may get possession of estates with which they would not have been entrusted by the grantor of the trust; and part from the mistakes and errors to which private men are liable, who can spare but a moderate proportion of their time from their own concerns, to attend to the concerns of others.

"Nor should the spirit of migration which characterises our countrymen, nor the fluctuating nature of property among us, be forgotten, in an estimate of the dangers the party creating the trust runs in reposing confidence in any individual, however stationary he may at the time appear to be, or however flattering his pecuniary circumstances; in a short time the property which it was hoped would continue under the vigilant inspection of him, whose judgment and skill in its management was the foundation of the confidence reposed, is often left to take its chance in the hands of agents, while the pursuits, perhaps necessities of the trustees, have carried him to reside in other states or in foreign countries. So too we daily see estates which promised security, to the cestui que trust, swept from the hands of their possessors, by the reverses of fortune, and too often accompanied by the property confidently trusted to them, and which was perhaps the sole hope of helpless infancy or declining years.

"Your committee conceive, that a company established for the express purpose of managing such trusts, would afford many and great advantages. Under the control of upright and honorable men, with proper provisions to secure it from falling into the hands of any others, the dangers of fraud would be nothing; it would be stationary by the act of incorporation, and it would be possessed of a capital paid in, and secured on unencumbered real estate, amply sufficient to answer any claims which might be made upon it. The intention of the party creating the trust, will be strictly executed, and the interest of the cestui que trust attended to, nor will the risk exist of property falling into hands unknown and undeserving of confidence. To this may be added, the important advantage that the company would allow interest immediately for all monies received, over one hundred dollars, either in trust or as guardians, and the less expense at which a company could afford to perform the services it renders

than an individual, and the additional circumstance, that the surplus funds of an infant, after deducting the expenses of education and support, will accumulate in the hands of the company at compound interest.

"In all these circumstances, the striking similarity between the proposed institution and the savings banks, established in different parts of this state, will be perceived. It is not necessary at this day, to point out the advantages of savings banks. They have secured thousands from misery and want, and are universally acknowledged to have shed the happiest influence over the prospects and fortunes of the poor, particularly in our cities; nor excepting the amount which the companies take charge of, will there be any difference in the objects of the institutions. Savings banks are intended for the reception of small sums, and refuse any other. The present institution is intended to begin where savings banks leave off, and to take the charge and care of any amount which may be entrusted to them. As larger sums will, from time to time, be deposited with the proposed company than are deposited with savings banks, an ample capital is pledged, as an additional security to that which savings banks alone rest on, the honor and discretion of their trustees. This is the view which your committee take of the capital; they consider it as an additional security, to the grantor of the trust and to the cestui que trust, and while they have had a just regard to the interest of the holders of the stock, they have felt themselves much more loudly called on to guard and protect the rights and interests of the former parties. A provision will be found in the bill, similar to those inserted in the several charters, incorporating the savings banks of this state, authorising the trustees themselves to fill all vacancies occurring by death, resignation, or removal. Your committee consider this provision to be essentially important, and to be the best, if not the only means, which can be adopted to secure a succession of able and upright trustees, and to preserve the company from falling into the impure hands of designing speculators."

"Your committee, considering the interest of the grantor of the trust, and of the cestui que trust, quite as much, if not more, the object of legislative attention and care, than that of the stockholders, have believed themselves consulting the true interest of the two former parties, and of the public in general, by earnestly recommending, that the trustees should be authorised to fill up the vacancies, occasioned by death or otherwise, as is done in other savings banks. By this means, the grantor of the trust will know in whose hands his property will continue, and to whom he is about to confide it. Nor can the stockholders complain that their interest has not been sufficiently attended to, for it will be remembered, that the stock is to be taken up, after the law is enacted. Those therefore, who take up the stock, take it up, knowing the manner in which vacancies in the board of trustees, are to be filled, which makes it the same, as if those very stockholders now presented themselves to the Legislature, and solicited that this provision might be a feature in the act of incorporation.

"It is one too, which for their own interest, they must desire. For a very prominent reason for the failure of success in the trust and life insurance business of those incorporations, which have been established for insuring against fire and sea risk, and for banking purposes, has been, that the directors of those companies have been chosen by the stockholders; a body of men, who, as they change from day to day, by the sale of the stock in the market, render it from day to day uncertain who may constitute the board of directors. A person who insures against fire this year in a company, the direction of which he has confidence in, if that direction is changed, may insure next year, in an office, the direction of which he likes better. It is the same when the insurance is against sea risks. In banks, the individual who borrows money is the party trusted, he receives the bills, and parts with them to-morrow; he reposes no confidence in the bank from which he borrows; his only concern is to pay his debt. But he who trusts the money he intends for the support of a wife, a child, a lunatic, and perhaps on his death bed wishes to provide for the dearest and tenderest objects of his affection, trusts his property, not for a few months, or a year, but for years if not for life. He does not, like the owner of a house or a ship, when insured, retain the management of his property in his own hands; on the contrary he parts with the possession of his property, and places it in the hands of the company, who, as trustees, insures to him that at some distant day, it shall be returned safely to himself or to the party to whom he gives it. He therefore has a double interest in the character of those to whom he trusts it, and a double right before he does so, to know that he places it in hands as stable, and subject to as little change, as the nature of the thing will possibly admit. All this is obtained, and safely obtained, in the opinion of your committee, by allowing the trustees to fill up their own vacancies. Nor is the public, equally with the stockholders and cestui que trust, in the opinion of your committee, without the most ample and sufficient security against an improper use of their power, inasmuch as the bill provides, in case of the misconduct of any of the trustees, that the chancellor may remove, on the application of any party, and on sufficient cause being shown, either or all of the trustees; and further, if, after a thorough examination by a master and after his report, to be made annually, the conduct of the company does not meet with the approbation of the chancellor, and is not in his opinion conducive to the public good; that he shall report his opinion to the legislature, and this, too, in addition to the knowledge of the entire concerns of the company, which must yearly come through the report filed with the Comptroller, to the legislature, who may at all times alter, amend or repeal the act of incorporation. Your committee can conceive no objection to granting to the petitioners this authority, but on the contrary, the most substantial reasons for doing so.

"Your committee consider of great importance, the authority given in the proposed bill to the chancellor, to appoint the company guardians. The property of minors or of lunatics could, in their opinion, be placed in no hands where it could be so secure as under the management of such a company.

"Nor are the good effects of such powers granted to a company, as are contemplated in the proposed law, without evidence in our own country. Your committee have had before them proof that, in the city of Boston, a company has for many years existed, with the power of insuring lives, granting annuities and receiving money in trust. They have also had before them satisfactory evidence of the great utility that company has been of to the citizens of Massachusetts, and that it now commands the confidence of the people of that state, manifested by the property which its citizens, with feelings of entire security, are constantly entrusting to its management and care.

"Your committee find these sentiments in favor of an institution for the insurance of lives, granting annuities and receiving money in trust, founded on principles, such as have been stated, confirmed by the names and standing of the gentlemen who petition for an act of incorporation. In the wealth of many and the integrity of all, they see a security to the public. In the character of some of them, as eminent jurists, they have evidence that the disclosures in our courts lead to a conviction of the importance of such an establishment. In the station of others, as public men, they see a confirmation of that sentiment; and in the union of all parties they acknowledge the strongest proof, that public feelings and the wants of society demand such an establishment, as a remedy for the evils which now exist."

Extracts from a letter of the Hon. James Lloyd, to William Bard, Esq.

Boston, Sept. 7th, 1829.

"Certainly next to the positive enjoyment of happiness, the preventive of evil to ourselves, and to those most nearly and dearly connected with us, by guarding, so far as human forecast can provide, against the afflicting visitations of poverty, destitution, age and disease, cannot but be worthy in all civilized communities of great individual consideration, as well as under suitable restriction of public patronage and support. Accordingly, companies granting annuities, life insurances, endowments in trust with the benefit of survivorship, and for the deposit of property, have long since been introduced and encouraged in all the older and more enlightened governments of Europe; and particularly in that with which we are best acquainted, have been eminently useful.

"That such institutions have not more numerously taken root and flourished among us, may be readily accounted for in the youth of our country; in its hitherto comparative paucity of individual means, creating an aversion from subtracting even a small amount from the pursuits of active industry to guard against future but distant contingencies; in the ill success of some of those projects which probably masked in their origin, other and less justifiable objects; added to the want of familiarity with funded establishments

of this description, two only of which are known to exist among us, one at Philadelphia and the other in this city ; and in the state heretofore, for the greater part of the last fifty years, of the commercial and monied interests of the United States, always intimately and sympathetically united with each other.

"These causes are now, however, from a different state of circumstances, not only neutralized, but are ceasing to operate, from the expansion of our numbers, the accumulation of property, and the necessity we are under to rely on our own resources, and to call both forecast and prudence to our aid, for the safety of ourselves and of those who may be dependent on us, rather than to attempt to gather golden harvests in regions where they are no longer to be reaped, but which the unprecedented state of the civilized world, from the hostile contentions of the powers of Europe for many years, laid open to us ; aided also by the convictions unavoidably arising from the two highly respectable companies before mentioned, and the demonstrations one of them has already furnished of the advantages to be derived from having at command a safe deposit for properties in trust ; for public institutions, for the orphan, the widow, the superannuated, and even for the insane and the idiot ; and at the same time, in doing it, promoting the public benefit, by the reception and guardianship of funds for these purposes, and by still keeping through its loans, in active circulation, not only the redundant wealth of the advanced and retired man of business, but the gleanings of the relatively poor and humble, as well as the hoards which otherwise, from avarice or timidity, might remain locked in the closet or buried in the earth.

"From these general and cursory observations you will readily perceive, that my impressions are decidedly in favor of the public and individual advantages which would be likely to flow from the establishment, in the commercial emporium of the western hemisphere, on a broad basis, of such a corporation as that you have alluded to, and for the purposes which have already been indicated.

"Undoubtedly very much of the good-fame and consequent usefulness of any corporation of this character, must be mainly dependent on the principles upon which it may be founded, the solidity of its capital, and the administrators to whom its interests and management may be confided.

"The former of these, the leading powers, rules and regulations for the direction and control of its agents, cannot be too specific, too precise, or minute ; nor the administrators to whom its interests and management may be confided, too discreetly selected ; great care being taken to embody in the direction as much of acknowledged integrity, experience and reputation as can be commanded : the attainment of which is of vastly greater importance than enrolling a numerous body of stockholders on its subscription list, who, if not in the direction, would be of little value even in the extension of its business ; which can and ought alone to follow, from a reliance on its safety, its fairness, and its productiveness ; which would probably be as soon impressed on the community with a limited, as well, if not better, than with a large number of proprietors ; not unfre-

quently arising from sub-divisions and speculations in the stock, and competition and rivalry in filling the offices of the company.

"In such hands and under such regulations as have just been described, public confidence would be fully commanded for the institution, and its benefits be proportionably, and, I doubt not, speedily, and greatly extended."

"In forming an institution of this important and lasting character, it should unquestionably be based on an ample capital, and so far as may be within the compass of prospective restrictions and provisions, every practicable measure should be adopted to secure at all times, not only for the present, but the future, a respected and able direction of the company, and to keep the stock in safe and responsible hands ; as on the attainment of those objects the public confidence would depend."

"Perhaps it is not possible to get up a company, when under an able, faithful and honest direction, less exposed to hazard, or in so small a degree subject to fluctuation as that now contemplated ; its investments must be both secure and moderately productive, if confined to the objects before stated, while its risks are attended with no hazards of war, tempests, or other scourges of humanity ; are reducible upon fixed scientific principles and the tests of experience, to an estimation as nearly approximating certainty as any future events can well be ; and even those risks are well understood never to be taken, except when predicated upon a benefit to the company, from the small but unvarying balance of the calculations being always in its favor : hence it would seem to be evident, if any corporation were authorised to anticipate a regular and constant, but not large rate of dividends, it would be one of this description."

"The company was incorporated by an act of the Legislature in 1818, but owing to various causes of a local nature, did not go into operation until 1823, when it was efficiently organized with a very respectable and able board of directors ; at the head of whom was placed a gentleman (Doct. Bowditch) highly distinguished for his general estimation, deep scientific attainments, and entire devotion to the objects of his attention, who still continues in office ; since which period, 1823, its operations have fully met, and in some respects greatly exceeded, the expectations of its patrons and friends, while its course throughout has been uninterruptedly useful and acceptable."

"The deposits in trust have been large, and have exceeded the expectations formed with regard to them, while the avidity to make at least keeps pace, as I believe, with the convenience of the company to receive them, from the difficulty in a comparatively large community in finding at all times, and at short notice, safe and productive objects of investment."

"Insurances on life have been effected by some of the most estimable of our citizens in professional pursuits, as well as by others engaged in more hazardous occupations, who have thus wisely and affectionately guarded their immediate families and dependents from the pressure of adversity, from the unlooked for occurrence of an event, to which all human beings are at every moment subject."

There are a few additional considerations, which the applicants for the North American Trust Company venture to suggest.

In the political economy of a free country, there is perhaps no principle oftener acknowledged or more generally felt, than that a fair competition not only gives life and spring to every kind of business, but is the best regulator of its operations. The New-York Life Insurance and Trust Company, is the only institution in this state for making insurances on lives, granting annuities and receiving money in trust, and there are no institutions of a similar character, nearer than Boston and Philadelphia. That institution is thus without competition in its business with the citizens of this state, and of several adjoining states. The rates of premiums for insurance, and of granting annuities, and the interest allowed for money deposited in trust, is therefore at the entire option of the company; and that those rates afford a large profit, is evidenced by the high price which the stock of that company now commands in the market. And it is respectfully submitted to the legislature, that the incorporation of another institution, with similar powers, will have the same beneficial effects in regulating those rates that have been experienced in respect to fire and marine risks, by the creation of the several Fire and Marine Insurance Companies.

From an estimate which appeared a few days since in one of the leading public journals, and which is believed to be correct, it appears that the total amount of stocks in the United States, is about eighty millions of dollars, and that about ten millions, including a million and a half of the debt of the United States, will be paid off during the present year. A large portion of these stocks are owned by foreigners, who have no desire to withdraw their funds from this country, if a safe and easy method can be found for their investment. And it is confidently believed, that the incorporation prayed for by the applicants, will not only afford facilities for the re-investment of the foreign capital already in the United States, but will induce the transmission to this state of other funds from Europe.

The company will be required to loan one half their capital secured upon real estate, out of the city of New-York. In order to facilitate such investments, and to save applicants for loans, the expense of employing an agent, or of making personal application at

the office in New-York, twenty of the trustees are located in different sections of the state.

The names of the trustees, and their places of residence, are annexed.

TRUSTEES.

New-York.

Jonathan Thompson,
Gideon Lee,
Campbell P. White,
Myndert Van Schaick,
John G. Coster,
Peter Lorillard,
Jeromus Johnson,
Joseph D. Beers,
Elisha Riggs,
David Austin,
John Iselin,
Eleazer Lord,
William Seaman,
Cornelius W. Lawrence,
Samuel Sherwood,
Jacob Drake,
Benjamin M. Brown,
John I. Morgan,
Charles M'Evers,
Henry Remsen,
James Heard,
Henry Kneeland,
Gurdon Buck,
Peter I. Nevius,
Edmund Smith.
Otsego.
Samuel Nelson.
Greene.
John Adams.

Dutchess.

Ephraim Holbrook,
James Hooker.

Delaware.

Herman D. Gould.

Albany.

Erastus Corning,
Charles E. Dudley,
John Savage,
John T. Norton,
Silvanus P. Jermain.

Rensselaer.

Stephen Warren,
John P. Cushman.

Columbia.

James Vanderpoel.

Schenectady.

Alonzo C. Paige.

Oneida.

Montgomery Hunt.

Franklin.

William Hogan.

Cayuga.

Nathaniel Garrow.

Chenango.

John Tracy.

Genesee.

David E. Evans.

Livingston.

James Wadsworth.

IN ASSEMBLY,

February 28, 1831.

REPORT

Of the committee on claims, on the petition of Lemuel Warren, and of sundry inhabitants of Franklin and St. Lawrence counties.

The committee on claims, to which was referred the petition of Lemuel Warren, and of sundry inhabitants of Franklin and St. Lawrence,

REPORT :

In 1827, the State appropriated \$1,000 for improving the State road through the St. Regis reservation, provided the inhabitants would raise an equal sum. Commissioners were appointed to lay out the road and contract for its construction. They contracted with Lemuel Warren to make seven and a half miles of the road, being that part which run through the woods, for the price of \$1,860. The commissioners certify, that the contract was made at the correct rate at which the work could have been done in the most favorable season ; that the summer of 1827 was so inclement that it was impossible to complete it ; that the summer of 1828 was but little more propitious, and that they would have relieved him from the contract if they had possessed the power of doing so. They speak in high terms of his judgment, perseverance and economy, and state their belief that the loss sustained by him, must exceed \$1,200. These facts are corroborated by other documentary evidence, in which the amount of loss is estimated at a higher rate. A case is thus presented of a loss sustained in work done for the public, which was occasioned by unforeseen and unavoidable casualties. The principle of making compensation in such cases, has been repeatedly recognized by the

Legislature, and applied to cases which cannot be distinguished from this. The State was benefitted by the labor, in the enhanced value which the road gave to the public lands through which it run. But as the State did not undertake to do more than one half in the construction of the road, your committee are of the opinion that it is not bound to make up more than one half of the loss. And to provide for this, they have directed their chairman to introduce a bill.

IN ASSEMBLY,

February 25, 1831.

REPORT

**Of the committee on claims, on the petition of
Henry Becker.**

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Henry Becker,

REPORTED :

It appears that the petitioner enlisted in Capt. Pierce's company, in the fourth regiment of the line of this State, in the army of the Revolution. The facts of enlistment and service are proved by the affidavits of Lodowick Cring, James Williamson and John Lepper; but these do not speak of the term for which he was enlisted. Joseph Waggoner also testifies to the service and enlistment, but says that the enlistment was "for nine months or longer." The petitioner has made an affidavit that he enlisted for during the war. Your committee are constrained to say that this evidence can not be deemed sufficient to establish the important fact of his enlistment for "during the war," which alone would entitle him to bounty lands.

But from the returns in the Secretary's office, it seems that Henry Becker was returned, and a patent issued to him, for lot No. 31 in Ulysses. If this is to be taken as evidence that the present petitioner was entitled to bounty lands, it also proves that his claim has been satisfied. In answer to this, it is alleged that the patent was in fact intended for Henry Baker, who was a sergeant in the same company and regiment, and who died in 1778, as appears from Neeley's register. Admitting the fact that there was a Henry Baker, yet it does not lie with the petitioner to allege that the patent which was in the name of Becker, was intended for Baker. According to

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the decisions of the Supreme Court, particularly that in 12 Johns. 84, the petitioner would be entitled to the benefit of the patent. And he seems himself to have been aware that he had title to military bounty lands; for he produces the affidavit of his son John Becker, that in 1818 some men offered the petitioner three hundred dollars for his right and claim to land he had served for in the revolutionary war; but that the petitioner then refused to sell it, saying he calculated to let it lay for his children. In the view of your committee, it is quite a clear case, and affords no ground for the interposition of the Legislature. And they have embodied the important testimony relating to it, in this report, with a view to its preservation.

The committee recommend to the House, the adoption of the following resolution:

Resolved, That the petition of Henry Becker be denied, and that he have leave to withdraw the affidavits accompanying the same.

IN ASSEMBLY,

February 24, 1831.

REPORT

**Of the committee on claims, on the petition of
Nathan Cornell.**

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Nathan Cornell,

REPORTED—

The petitioner purchased at a public sale of the Surveyor-General, in 1807, one hundred acres in the southeast corner of lot No. 14, in Hector, on which he paid \$14. In 1817 the contract was forfeited in consequence of the neglect of the petitioner to pay the residue of the purchase money, and the land was resold for \$460, of which \$303.43 was paid to the petitioner on the 23d April, 1824. He now asks interest on that sum from 1817 to 1824, and compound interest from the latter period.

Your committee could not perceive the least ground for this claim, but conceiving the principles which it involved of great importance, they submitted the petition to the Comptroller, and requested his opinion, which he has very obligingly furnished. His opinion, reasons and arguments, the committee adopt as theirs, and desire that his communication may be considered a part of this report. It is so clear and convincing that it is impossible for your committee to add to its strength, and they therefore content themselves with recommending to the House, the adoption of the following resolution:

Resolved, That the petition of Nathan Cornell, of the city of Albany, be denied.



Communication of the Comptroller.

COMPTROLLER'S OFFICE,
Albany, 9th February, 1831.

The Hon. J. C. SPENCER,
*Chairman of the Committee of Claims,
Of the House of Assembly.*

SIR—I have examined the petition of Nathan Cornell referred to me by your committee, and now give you, in a very hasty manner, my views upon the question presented.

The first law I have been able to find giving authority to pay out of the treasury surplus moneys received, either upon the foreclosure of mortgages to the State, or upon the re-sale of lands held under the certificates of the Surveyor-General, is the one referred to in the petition, (Laws of 1824, page 303.) I find from an examination of the annual report of the Comptroller of that year, Assembly Journal of 1824, page 198, that the suggestion upon which that law was passed, was made to the Legislature, together with a variety of other suggestions, in reference to the foreclosure of mortgages in favor of the State, in that report, and that no suggestion as to the allowance of interest is found to have been made. The law of 1824 makes no provision for the payment of interest either in reference to its prospective or retrospective operation.

I find no other law upon this subject until the Revised Statutes, and sections 10, 11 and 12, of title eighth, chapter eighth, of the first part, contain the revision of the law of 1824, as will be seen by the references from these sections. No provision as to the payment of interest upon these moneys is embraced in the revised provisions, and I do not find, nor am I aware of the existence of any law passed since the Revised Statutes, which authorise the allowance or payment of interest upon surplus to be refunded.

I therefore conclude no provision by law does now exist to authorise the payment prayed for, nor to authorise the allowance of interest upon surplus moneys arising from a mortgage sale, and I am clearly of the opinion, that no such law should be passed, and that no such allowance should be made in either case.

My reasons for this opinion will be best shown by a short examination of what I understand to be the legal and equitable relations between the buyer and seller in each case. I had always supposed that, as between private individuals, the claim of the mortgagor to the surplus moneys which might arise from the sale of mortgaged premises, over and above the full payment of all claims of the mortgagee arising out of the mortgage and the proceedings under it, had its foundation in the covenant, which I believe is always inserted, giving such claim, and that without the covenant to pay back the surplus moneys, if any there should be, or without a reservation by the mortgagor, having the effect of such a covenant, the claim would

not exist. Upon examination I find that it was not usual in mortgages to the State, to insert any covenant, or to make any reservation of this description; but, on the contrary, the mortgagor expressly covenants that all equity of redemption shall be lost to him upon any default. But contracts for the sale of land, (and the Surveyor-General's certificates are merely contracts to convey if the condition of the bond shall be complied with,) never contain any reservations to the purchaser in case he neglects payment. The contract therefore is, that the buyer will pay as he agrees, or that he will forfeit whatever he may have paid or done before the default, and that the seller may resume his lands. In this mode of selling therefore, as I understand it, there is no equity between the parties, they being private individuals, other than what may be stipulated upon the face of the contracts. So it was under the certificates of the Surveyor-General, until the Legislature extended equities to the purchaser by the law of 1824, and continued and extended them by the Revised Statutes, and so I understand it now is, except so far as those laws have changed the relations existing before their passage. That change however, we have seen, does not extend to the allowances of interest upon surplus moneys, and therefore does not reach the case of the petitioner. Would it be right that it should? A mortgage between individuals expressly provides that the mortgagee shall pay to the mortgagor any surplus money arising from the sale of the mortgaged premises. It compels him from the completion of the sale to be always ready to pay them upon demand. Would it be right to compel him to pay interest upon those moneys until the demand should be made? He could not invest the moneys, because, as to time, he cannot control them, and therefore, to be accountable for their safe keeping, and to have them ready at call, should be all the responsibilities exacted from him. If this be true as to an individual, is it not equally true as to the State? Can the State profit by the use of moneys when an individual could not? But neither have contracted to pay interest. The moneys are to be ready on demand, and the time of the demand is at the option of the claimant of the money to be paid. If it is delayed, and the use of the money is lost to him, it is his own default, not the default of the mortgagee who is always ready to pay. Seeming to be aware of this obvious principle, the petitioner speaks of a declination to pay interest when the principal was paid. To test the force of this suggestion, its applicability to his case should be looked at. He no doubt acts under the mistaken impression that he had an equitable right to this surplus money before the law of 1824. But this is not so. He had the full benefit of his contract. No equities were reserved to him by it. It was left entirely to his choice to forfeit the contract or to fulfil it, so far as the land was concerned, and it was at the option of the State to prosecute his bond, or to re-sell the land; but if the latter course was selected, the bond was, from that fact, cancelled; as the Surveyor-General was then, and is still, by the law, bound to bid the amount of the debt, interests and costs upon the resale; and if no person should appear to bid more, to take the land for the State in satisfaction of the debt. This hazard was assumed in electing to re-

sell; and the reciprocity produced by the collateral bond which secures a mortgage, did not then, and does not now, exist in these cases. The parties therefore had no ground of complaint against each other, nor, is it believed, had the transaction been between individuals, that a court of equity could have extended any relief to this purchaser. He chose not to pay according to his contract: The State chose to take the land it had sold, and by doing so, to release him. Each party acted strictly within the known and well understood powers given to each by the contract; and it is not seen that their doing so, could furnish the ground of an equitable or legal claim by either, against the other, of a description not contemplated in the contract. The Legislature however, six or seven years after the business was finally closed, so far as this petitioner was concerned, chose to direct the re-payment to him of the surplus money arising from the resale of this lot, but they do not choose to direct the payment of interest upon it. If no legal or equitable claim to the money existed before the passage of this law, did the passage of the law making the *gratuity*, carry along with it a *claim* for interest upon the gift?

It is fully believed that the law created the claim; and that it is not to be considered as making provision for rendering an existing claim effectual. So, it is believed, stands the claim now set up for interest upon this interest. It is a claim having no existence in law or equity, and any law directing the payment either of the interest upon the surplus, or of interest upon that interest, would create as well as enforce the claims, and must be considered in the light of mere gratuities. But the principle involved is a very important one, and the committee will not fail so to consider it. The surplus moneys received into the treasury upon the foreclosure of mortgages, and upon the re-sales of lands, are considerable, and will increase as the necessities of the State require the collection of its land debts. It not unfrequently happens also, that lots sold in both these ways are, within the time allowed by the law, redeemed from the operation of the sale, by the persons interested. All the lands redeemed from the operation of the tax sales, are so redeemed by the payment of the moneys into the treasury, and at every such sale the amount of these redemptions must fluctuate between \$50,000 and \$100,000. It often happens that these moneys of all descriptions remain considerable periods in the treasury. The persons entitled do not know that they are paid in. They cannot show that they are entitled, or their convenience does not enable them to call. The moneys are to be paid on demand, and the State has the use as much of the one description of them as of the other. It is not therefore seen, if interest is to be payable upon any, why the same principle will not compel its payment upon all of them.

Indeed it is a fact, which experience in this office constantly verifies, that there is more difficulty in establishing claims to surplus moneys, and that those moneys, as a general remark, remain longer in the treasury, in consequence of the inability of the claimants to establish their right to draw them out, than almost any description of moneys which merely pass the treasury without any claim of the

State to them. And if this fact is to entitle the finally successful claimant to interest on account of the delay occasioned by his own inability to show his right, it is respectfully submitted, that upon the same principle, the individual who has a claim against the State for any cause, which remains suspended because he is unable to show its truth, may demand usury for the delay thus created, or, in other words, the State must pay claims made against it without proof, or must pay interest for the time required by the claimant to obtain proof.

I have always understood it to be one of the leading principles of government, that the public treasury is ever ready to pay all just claims against it, and that for that reason it was that it never paid interest but by express contract or express law, and I had supposed that laws were not passed requiring these payments, but upon the clearly established proof that the default of payment was chargeable to the public, not to the party making the claim. The practice of allowing interest upon claims directed to be paid by special laws, and when the proofs did not bring the demands within the established rules for the allowance of accounts against the public, is of recent origin with us, and is believed to be a practice which cannot be too carefully guarded, or too cautiously indulged in. And it is earnestly hoped that the time is far distant when general laws, for the allowance of interest upon any class of public claims, will be passed, unless the very nature of the claim shall arise from the default of the public.

I hope the committee will find an excuse for this tedious letter, in my perhaps exaggerated view of the importance of the question submitted.

I am, with great respect,
Your obedient servant,

SILAS WRIGHT, JR.

IN ASSEMBLY,

March 1, 1831.

REPORT

**Of the committee on public lands, on the petition of
Ebenezer Chapman, and others.**

Mr. Tyler, from the committee on public lands, to whom was referred the petition of Ebenezer Chapman and others,

REPORTED—

That an act was passed April 23d, 1823, granting the owners of lots of land the privilege of purchasing the marshes adjoining their several lots, in what is called the South Bay tract, in the county of Washington, but owing to neglect or mistake, the petitioners did not avail themselves of the privileges contained in said act, wherefore an extension of time is required for the purchase of said marshes.

From the Surveyor-General the committee learn, that these marsh lots cannot be of any considerable use to any except the owners of the contiguous arable land; and believing the request reasonable, they have prepared a bill, which they now ask leave to introduce.



No. 231.

IN ASSEMBLY,

March 1, 1831.

COMMUNICATION

From the Commissary-General, in obedience to a resolution of the Assembly of the 23d ult.

STATE OF NEW-YORK, }
COMMISSARY-GENERAL'S OFFICE. }

New-York, February 26, 1831.

Hon. GEORGE R. DAVIS,
Speaker of the Assembly.

SIR,

In compliance with a resolution of the honorable the Assembly of the 23d instant, I have the honor to make to you the following report.

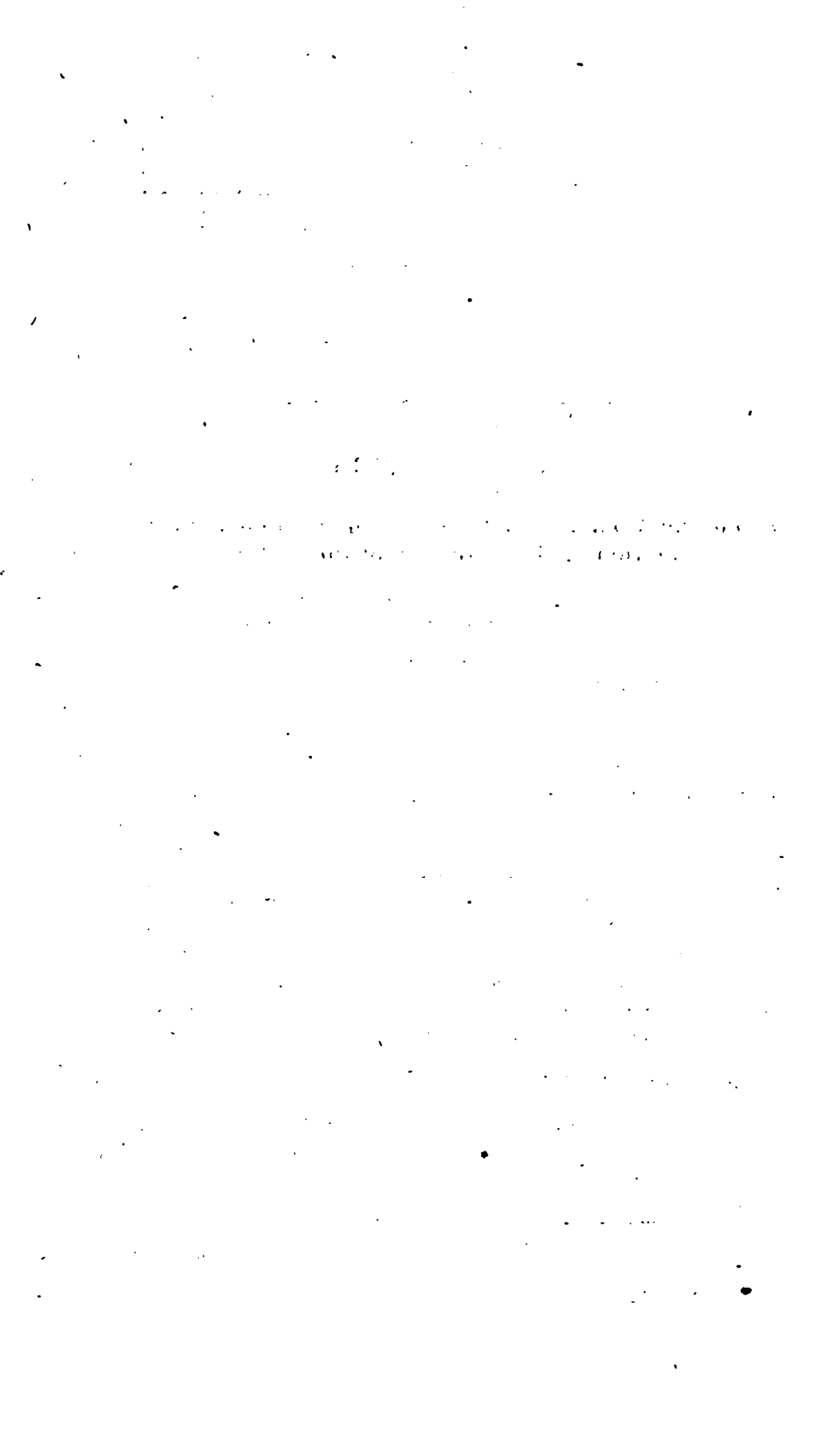
The Commissary-General, to whom was referred the petition of the trustees and inhabitants of school district No. 14, of the town of Malone, and county of Franklin, for an act to authorise the Commissary-General to permit the trustees, inhabitants of the said school district, to fit up and occupy the upper story of the State arsenal, situate in the said village, for a district school-room, until it may be required for military purposes,

RESPECTFULLY REPORTS :

That the said building is not at present used by the State, and that it is the opinion of the Commissary-General, it would be no inconvenience to the State to grant the prayer of the petitioners.

Respectfully submitted.

ALEXANDER M. MUIR, *Com. Gen.*



IN ASSEMBLY,

March 2, 1831.

REPORT

Of the select committee, on the petition of Charles Sprague.

Mr. Robinson, from the select committee to which was referred the petition of Charles Sprague,

REPORTED :

That about two years since, the petitioner erected a dam across a small branch of the Chenango river, running between an island and the main shore, on land belonging to the petitioner. That the said branch is so small and narrow as never to be used for a highway, and that the navigation of the main river is improved by his permanent dam, more water being thrown into it by the obstruction in the branch. The prayer of the petitioner is, that a law may be passed authorising him to maintain the dam by him erected as aforesaid, and also that he may be at liberty, in low water, to erect a temporary dam of boards across the main branch of the river, for the purpose of increasing the supply of water at his mill.

Upon the above statement of facts, which are believed by your committee, a bill has been prepared in conformity with the prayer of the petition, and leave is now asked to introduce the same.

2. Results

The first part of the paper is devoted to the study of the asymptotic behavior of the solution of the problem (1) for $t \rightarrow \infty$. The second part is devoted to the study of the asymptotic behavior of the solution of the problem (1) for $t \rightarrow 0$.

Let us first consider the case of the asymptotic behavior of the solution of the problem (1) for $t \rightarrow \infty$. It is well known that the asymptotic behavior of the solution of the problem (1) for $t \rightarrow \infty$ is determined by the asymptotic behavior of the solution of the problem (1) for $t \rightarrow 0$.

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1977-07-24

Received by the Editor

No. 233.

IN ASSEMBLY,

March 2, 1831.

MESSAGE

From the Governor, transmitting a report and resolutions of the General Assembly of the State of Ohio.

TO THE ASSEMBLY. ,

GENTLEMEN,

I send to you herewith, a report and resolutions of the General Assembly of the State of Ohio, which have been forwarded to me by the Executive of that State, with a request that I should lay them before the Legislature of this State.

E. T. THROOP,

Albany, March 1, 1831.

[A. No. 233.]

REPORT AND RESOLUTIONS.

The committee on the judiciary, to whom was referred so much of the unfinished business of the last session as relates to a "report adopted by the General Assembly of the State of Missouri, on a report and resolution of the Legislature of Georgia," on the subject of the constitutional power of Congress to appropriate money to aid the Colonization society, have had the same under consideration, and beg leave to

REPORT—

That your committee are not advised of any appropriations made by the General Government in aid of the Colonization society, and that it appears premature to express an opinion on any abstract proposition, the evils, benefits or political consequences of which, have not yet appeared; therefore,

Resolved, (by the General Assembly of the State of Ohio,) That it is premature and inexpedient to express any opinion whether the appropriation of moneys by the General Government in aid of the Colonization society, be or be not constitutional.

Resolved, That the Governor communicate copies of these resolutions to the Executives of the several States, with a request that they will lay the same before their respective Legislatures.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

SECRETARY OF STATE'S OFFICE,
Columbus, Ohio, 12th Feb. 1831.

I certify, that the foregoing report and resolutions are correctly copied from the original roll on file in my office.

M. H. KIRBY,
Secretary of State.

IN ASSEMBLY,

March 4, 1831.

COMMUNICATION

From Henry Seymour, Canal Commissioner, relative
to the Memorial of Gerrit Smith.

To the Hon. George R. Davis, Speaker of the Assembly.

The undersigned respectfully requests the Hon. the Assembly to empower the committee on canals and internal improvements, to whom the memorial of Gerrit Smith has been referred, to send for persons and papers, for the purpose of investigating more effectually the matter contained in that communication.

Had the memorialist contented himself with laying his supposed grievances before the Legislature, and with making specific and distinct charges in relation to the subject matter of his complaint, the undersigned would have deemed it unnecessary to have made the present application ; and he would have been satisfied to have left the memorialist to exercise his ingenuity in attempting to establish "that the interest he charges on Mr. Seymour is repugnant to the letter as well as the spirit of the statute which forbids Canal Commissioners acquiring and retaining certain interest ;" and with equal indifference would he have regarded the application for his removal from office, on the alleged ground that his continuance prevents the sale of the Oswego canal company's stock ; or in other words, the sale of the surplus waters of that part of the Oswego canal from which the memorialist claims the right to sell. These being the only charges or complaints which he has preferred, and he having exonerated the undersigned from having said or done aught to injure the property of the Oswego canal company, the undersigned would have been willing to have submitted the question of his removal, (which removal the memorialist has modestly suggested to

be "a perfectly plain duty," for your performance,) without any other information on the subject, than such as the committee would have been able to obtain in the exercise of its ordinary powers. But the application for his removal has been accompanied with various extraneous observations and insidious allusions. Mr. Smith, from motives of which it does not become the undersigned here to speak, has availed himself of the opportunity which the presentation of his memorial afforded, to intimate his knowledge of improper conduct other than that alleged in his memorial, and which he appears disposed to leave unspecified and unexplained.

The object of the present application to your Honorable Body, is for authority to be given to the committee, to compel Mr. Smith to specify on oath, what official mis-conduct of the undersigned he has knowledge of, if he has any, and in case he has none, to require him to admit that he has no grounds upon which he can sustain or justify the insinuations he has made.

HENRY SEYMOUR.

Albany, March 3d, 1831.

No. 235.

IN ASSEMBLY,

March 2, 1831.

REPORT

**Of the committee on public lands, on the petition of
John McCrea.**

Mr. Tyler, from the committee on public lands, to whom was referred the petition of John McCrea,

REPORTED—

That the committee have had the same under consideration, and find that the petitioner, without any legal claim thereon, or particular interest therein, requests the exclusive privilege of purchasing a part of a lot in the St. Regis reservation, in the county of Franklin, on which a gun-house erected by the State now stands.

Your committee can see no just reason for complying with the wishes of the petitioner, in altering the course for sales of public lands of the State, and recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner be denied.



IN ASSEMBLY,

March 4, 1831.

MEMORIAL,

Of Gerrit Smith, specifying his charges against
Henry Seymour.

*To the Honorable the Legislature of the State of New-York, in
Senate and Assembly convened.*

The memorial of Gerrit Smith respectfully shews, that since the presentation of his former memorial to the Honorable the House of Assembly, praying for the removal of Henry Seymour from the office of Canal Commissioner, your memorialist has learnt, from correspondence with the chairman of the committee to which that memorial was referred, that it is supposed not to be sufficiently explicit and distinct in its charges against Mr. Seymour. Your memorialist was not aware of the degree of precision which would be required in such a petition. The form he gave it was such, as he supposed, would enable Mr. Seymour to understand the charges intended to be proved. But your memorialist cheerfully acquiesces in the suggestions which have been made by the chairman of the canal committee, and herewith presents the charges and specifications, which he expects to be able to substantiate, and prays that the same may be considered as a part of his former memorial. Although your memorialist has not personal information of all the facts alleged, yet he believes them all to be true, and expects so to testify before the committee to which his memorial has been referred.

GERRIT SMITH.

March 4, 1831.

SPECIFICATION OF CHARGES AGAINST HON. HENRY SEYMOUR.

First Charge—Is, that Mr. Seymour has violated the statute, which forbids Canal Commissioners having any interest in hydraulic works dependent on the canals.

1st specification under this charge is, that he is jointly interested with Abraham Varick, Joel Turrill, and Rudolph Bunner, in a parcel of land on the west side of the Oswego river, in the village of Oswego ; a part of the front of which they last fall subdivided into 63 mill lots. These lots lie upon a flume, which Mr. Seymour and his associates, built during the year past, in the bed of the river, and parallel with it, for the purpose of receiving and accumulating the waste water of the "Oswego canal," which pours over and through the dam, constructed by the State across the river, to raise the river, (which at this point is a part of the canal,) to the level of the canal. The value of these 63 lots depends entirely-upon their being used for hydraulic purposes ; and they cannot be so used without supplying the flume on which they lie, from the canal, in the aforementioned manner.

2d. Specification. Lot No. 12, in East Oswego, lying on the canal constructed by the "Oswego canal company," in continuation of the "Oswego canal," is owned by Henry Seymour, in company with Alvin Bronson and Theophilus S. Morgan. This is a mill lot, and depends for its supply of water on the "Oswego canal," to be obtained by purchase thereof from the Oswego canal company. The said Seymour has endeavored to sell this lot for the express purpose of having an extensive flouring mill erected on it.

Second Charge. If there can be any doubt about Mr. Seymour's having violated the *strict letter* of the statute ; yet, it would seem that there could be no doubt of his having violated *its spirit and meaning*, in purchasing and owning the property above mentioned. The policy of the Legislature, in imposing upon Canal Commissioners the restrictions of this statute, was evidently that they should be entirely disinterested and impartial in the discharge of the delicate and responsible powers vested in them : and any act on their part, which goes to defeat this policy, is clearly a violation of the intent of the Legislature. In reference to the interests of the "Oswego canal company," this policy is peculiarly and strikingly applicable ; inasmuch as the acting Canal Commissioner of the "Oswego canal," (who is Mr. Seymour,) has an important agency

in regulating the manner and extent of the draughts made by the company on the canal for the supply of machinery along it. The interests of the company are directly in conflict with those of Mr. Seymour; and every opportunity, which his official situation gives him to promote his own interests, correspondently depreciates the property of the company. The truth of this remark is illustrated in the fact, that the associates of Mr. Seymour, and others, interested in raising the credit of their mill sites, already talk of the permission that will be obtained, and which some of them say has been obtained, to insert a lock in the west end of the dam: by means of which lock, their mill sites would have a navigable communication with the "Oswego canal," and thus be rendered as valuable as the mill sites of the "Oswego canal company."

The Oswego Canal Company acquired a right to this water by an express grant of the same from the State, made in consideration of the company having surrendered its canal to the State without any other compensation. And the oppression of this company at the hands of an officer of the State, is peculiarly unmerited and severe, when it is remembered how greatly the enterprise of this company enhanced the value of the property of the State in Oswego; and that it enabled the Surveyor-General to sell lots on the company's canal, at from 1,000 to \$1,600 each, which, but for this canal, would certainly not have brought one-fourth of these prices.

Third Charge.—Mr. Seymour has at various times, affected to question the title of the "Oswego Canal Company" to the surplus waters of the canal. He has also magnified the advantages of the mill sites, owned by himself and Messrs. Varick & Turrill and Bunner, in comparison with those belonging to the company, which he has at the same time depreciated. He has also represented, that the company would not be allowed to multiply their machinery above the bridge, ($\frac{1}{3}$ of their mill lots are above the bridge,) and he has even proceeded so far as to say, that all the present flumes of the company above the bridge, ought to be, or would be shut up; and that ultimately, all the machinery above the bridge, would be on the opposite side of the river, viz. on the mill lots owned jointly by himself and others. He has also, with most injurious effects on the credit of the company's property, suggested that the purchaser from them would do well to require an indemnity against a failure of water. He has repeatedly, *since* he acquired his rival interest in question, *but never before*, forbidden persons, who had

purchased water from the company, to tap the canal. He has, by his general conduct, as well as in various more prominent acts, the detail of which would here be tedious and useless, evinced a settled hostility to the interests of the company.

GERRIT SMITH.

March 4, 1831.

IN ASSEMBLY,

March 3, 1831.

REPORT

Of the committee on canals and internal improvements, on the memorial of Gerrit Smith.

The committee on canals and internal improvements, to whom was referred the memorial of Gerrit Smith, praying for the removal of the honorable Henry Seymour from the office of Canal Commissioner,

REPORT :

That when they entered upon the consideration of that paper, they found themselves at a loss to know what were the precise charges against Mr. Seymour, which it was the intention of the memorialist to make, and which the committee were to investigate.

They therefore requested an explanation of the memorial ; and the correspondence between their chairman and the memorialist, accompanies this report.

From the memorial and that correspondence, and also from a personal interview with Mr. Smith, your committee understand that the following charges are preferred against Mr. Seymour :

1st. That he has violated the statute which forbids Canal Commissioners "owning or being interested in any hydraulic works, dependent on the canals for their supply of water," by becoming interested in certain water privileges on the Oswego river :

2d. That the property in Oswego, in which Mr. Seymour is interested, bears such a relation to the Oswego canal, of which Mr. Seymour is acting Commissioner, and to the property of the Oswego
[A. No. 237.]

go canal company, which is, to a considerable extent, under the control of such acting Commissioner, as to demand his removal :

3d. That there are words and deeds of Mr. Seymour, in relation to his property in Oswego, and to that of the Oswego canal company, which concur with the facts stated in the first charge, in demanding his removal from office.

Your committee have stated these charges in as definite a manner as the documents before them enable them to do ; and they thus lay them before the House, for the purpose of enabling the House to determine how far forth they shall be investigated.

As to the last charge, it is proper that your committee should direct attention to the repeated avowal by Mr. Smith, of his hopes that an examination thereof may be thought superfluous and unnecessary.

Whether such an examination will be pertinent and necessary, is a question purely for the consideration of the House. The duty of the committee is deemed by them to consist in an investigation of such charges as may be judged by the House to be of that character. But as the memorialist rests those avowals upon his belief that his preceding charges will be sufficient to cause Mr. Seymour's removal, your committee do not perceive how the House can deem that examination to be superfluous and unnecessary, without first determining that Mr. Seymour shall be removed without an investigation, and before any testimony can be taken either to support or refute the charges. Your committee do not mean to be understood as imputing such a desire to the memorialist : they state only their own conclusion from the premises, for the purpose of presenting the question whether the House will direct an investigation, unconditionally, of the charge, or will clothe their committee with discretionary powers as to such investigation. The latter course your committee do by no means recommend.

If the former is pursued, then it is deemed proper that your committee should also present the question, whether the two last charges are not altogether too indefinite and general, in their present shape, and whether the House will call upon the memorialist for a more definite allegation-against the Commissioner, or will give the necessary directions for that purpose to the committee. The committee, believing that this object can be obtained as well through

them as in any other manner, would suggest the latter as the preferable alternative.

Your committee beg leave further to report, that they have communicated to Mr. Seymour, copies of the memorial and correspondence, and have been informed by him, that he desires a prompt and full investigation of the whole subject matter of those papers.

Your committee therefore recommend the adoption of the following resolution :

Resolved, That the committee on canals and internal improvements have power to send for persons and papers, in relation to the matter of the memorial and letter of Gerrit Smith, and that they report to this House their proceedings on the same, as the said committee may deem expedient.



MEMORIAL

Of Gerrit Smith to the Legislature of the State of New-York.

Your memorialist represents, that the "Oswego Canal Company," in which he has purchased stock to the amount of \$18,000, was incorporated in 1823, and was authorised, by the terms of its charter, to build a dam across the Oswego river, about one mile from its mouth, and to divert a portion of its waters along its eastern border, for hydraulic uses; that the work has been executed, and that several extensive flour-mills, and some other valuable machinery, are already connected with it.

Your memorialist further represents, that a company, consisting ostensibly of three gentleman, has, within the last four years, purchased and improved, at the cost of not less than \$24,000, the rival mill sites on the west side of the river, directly opposite to those of the "Oswego canal company;" that recent circumstances having confirmed his suspicions that the Hon. Henry Seymour had an interest in these mill sites, he made search for it, and found it under the cover of the name of one of the three gentlemen aforesaid.

Your memorialist is confident, that the interest he charges on Mr. Seymour is repugnant to the letter, as well as to the spirit of the statute, which forbids Canal Commissioners acquiring and retaining certain interests. But, should your honorable body determine otherwise, your memorialist submits, that there will still remain sufficient reason for his removal from office, in the fact, that, connected as the property of the "Oswego canal company" is with the "Oswego canal," the acting Commissioner on the canal has this property, to no small extent, under his control. Mr. Seymour is now, and has been from the beginning, such acting Commissioner. Free as he may have been, when his company purchased the mill sites referred to, of all designs of injuring the "Oswego canal company," still it must be evident to all, that the official favors these sites will be naturally expected to enjoy, and which, indeed, are already calculated on and boasted of, must go far to raise their credit; whilst, on the other hand, the consideration that Mr. Seymour may possibly be prompted, by his rival interest, to injure the "Oswego canal company," through some of the many indirect, irresponsible and unseen ways, that expose it to the power of the acting Commissioner, must greatly impair the credit of the "Oswego canal company's" property. Indeed, can the prudent man be found, who would make an investment in this property, were he previously to know, that the Canal Commissioner, who is, in a great measure, the necessary interpreter of the canal company's rights, had placed himself under what might be, or (which is nearly as injurious to the company,) might only be *suspected* to be a strong inducement to employ the powers of his office against the company? Your memorialist can evidently never hope to find a purchaser for his stock, so long as the company labors under the disadvantage of which your honorable body is, in this memorial, prayed to relieve it.

Your memorialist is aware that an acting Canal Commissioner is, in an eminent degree, obnoxious to popular clamor and prejudice. From his vast amount of discretionary power, and from his frequent collisions with individual and sectional interests, it cannot be otherwise, let him be ever so discreet and pure. That the prepossession of Mr. Seymour's innocence should for this reason be the stronger, is admitted to be both natural and proper. But your memorialist submits, whether this very liability of a Canal Commissioner to be misconstrued and slandered, notwithstanding it should operate in his favor, so far as to preclude a hasty entertainment of charges against him, does not on the other hand, greatly aggravate those charges, when they are substantiated? If with the utmost circumspection and integrity in discharging the duties of this office, its very nature is such, that the incumbent cannot "abstain from all appearance of evil," and maintain himself above suspicion, how blameable then is that Canal Commissioner, who unnecessarily provokes suspicion of himself, and puts on the "appearance of evil," by mingling extensive private speculations with his public duties! The duties of a Canal Commissioner—the confidence reposed in him, show what should be his character and conduct. Our Canal Commissioners have not only the making of our canals, but, with a measure of confidence in them almost unparalleled, the Legislature has referred to their qualified option, the making or not making of very important improvements, which are called for by large and valuable sections of the State. Now it may be, that the public would not generally and cheerfully acquiesce in the authority and proceedings of any men clothed with such powers; but, manifestly, they would not, if these public servants were more distinguished for keenness of sight to their private interests than for devotion to public good: and especially they would not, if these servants were seen to be availing themselves of the information they had acquired, in the course of their official duties, for determining what spots along the canals are the choicest and the most suitable to annex to their rapidly swelling estates. If, therefore, it be true, that the office of Canal Commissioner is, from its extensive and discretionary powers, or from any other causes, regarded with more jealousy than any other office is, does not this fact furnish a conclusive reason why the incumbent of this office, more than that of any other, is bound to avoid any unnecessary occasion of bringing his disinterestedness under suspicion?

Your memorialist does not charge Mr. Seymour with having used the powers of his office against the "Oswego canal company," nor with having said or done aught to disparage the property of the "Oswego canal company," nor aught to help the reputation or increase the value of the rival property, in which he is interested. Your memorialist trusts, that your removal of Mr. Seymour from office will appear a perfectly plain duty for other reasons; and that there will be no need of entering upon inquiries, which, from their exceedingly delicate and unpleasant character, are to be avoided, if they are superfluous. Still, if your honorable body should deem it to be due to the public, or to Mr. Seymour, to go beyond the range of investigation contemplated in this memorial; and especially

should Mr. Seymour seek to palliate his case by adducing proofs of his innocence in matters conceived by your memorialist to be foreign to that case, then your memorialist hopes, that in such event, he will not be restricted to the proof of the charges he has made in this memorial, but that he will be allowed to follow Mr. Seymour beyond these charges, and to exhibit whatever evidence he can, *that Mr. Seymour has not fully withstood the strong temptations to which he has exposed himself.*

GERRIT SMITH.

February 25th, 1831.

ASSEMBLY CHAMBER, }
February 28th, 1831. }

To Gerrit Smith, Esq.

SIR—The committee on canals, &c. to whom was referred your memorial, requesting the removal of Henry Seymour from the office of Canal Commissioner, for the causes therein stated, have had the same under consideration, and have directed me to request your answer to the following inquiries.

The committee understand very distinctly that you charge Mr. Seymour with owning hydraulic works, "repugnant to the letter as well as the spirit of the statute, which forbids Canal Commissioners acquiring or retaining certain interests;" but they do not as distinctly understand that he is charged by you with any other violation of his duty. The inquiries to which an answer is now requested by the committee are, whether it is your intention in your memorial to make any other charge against Mr. Seymour, than that above mentioned; and if it is, then I am directed to request you to specify what those additional charges are.

The committee are now too much at a loss with regard to the subject matter of these inquiries, to be able to decide upon the course which they ought to pursue, and as you are to appear before the committee to-morrow upon this subject, you will confer a favor upon them by affording them on that occasion, the desired information.

I am very respectfully,

Your ob't ser'vt,

J. W. EDMONDS,

Ch'n of the committee on canals, &c.

February 28, 1831.

To J. W. Edmonds, Esq. Ch'n of the com. on canals, &c.

SIR—I this moment received your letter. I do, as the committee understand my memorial, charge Mr. Seymour with having violated the statute, which forbids Canal Commissioners acquiring or retaining certain interests.

I secondly charge, that the property in Oswego, in which Mr. Seymour is interested, bears such a relation to the "Oswego canal," of which Mr. Seymour is acting Commissioner, and to the property of the "Oswego canal company," which is, to a considerable extent, under the control of such acting Commissioner, as to make it the *perfectly plain duty* of the Legislature to remove him from office, whether he has violated the statute in question or not.

The intimation, at the close of the memorial, that there are words and deeds of Mr. Seymour in relation to his property in Oswego, and to that of the "Oswego canal company," which concur with the fact of his ownership or interest in question, in demanding his removal from office, is liable to be construed by the committee into a *charge* on my part, that he is guilty of such words and deeds. I do not object to its being so construed; and especially so, as Mr. Seymour may think it to be fairer in me to bring a distinct charge than to throw out an intimation against himself. I am willing, therefore, to have this intimation construed into a charge; and I am at the service of the committee to indicate the proofs for sustaining it. I still, however, hope that it will be thought superfluous by the committee, by Mr. Seymour, and by myself, after the examination of the two first charges, to enter upon the unpleasant detail under the last head.

I trust this explanation of my memorial will present to the committee the whole possible range that the investigation may take; and to the end, especially, that the sending for persons and papers may be co-extensive with such range.

I am with great respect yours,

GERRIT SMITH.

No. 238.

IN ASSEMBLY,

February 28, 1831.

ANNUAL REPORT

**Of W. Cunningham, Cashier of the Dutchess County
Bank.**

*Dutchess County Bank,
Poughkeepsie, Feb. 25, 1831.*

SIR—

In conformity with the charter, I have the honor to enclose the annual report of the state of the funds of the Dutchess County Bank.

Very respectfully,
Your ob't servant,
W. CUNNINGHAM, Cashier.

Hon. GEORGE R. DAVIS,
Speaker of the Assembly.

[A. No. 238.]



STATEMENT

Of the funds of the Dutchess County Bank, (of Poughkeessie,) February 18th, 1831.

RESOURCES OF THE BANK.

Notes discounted and other sureties,.....	\$323,844 93
Specie,:	\$28,353 21
Balance due from Phœnix bank, New-York,.....	57,849 76
Bills of New-York and other specie paying banks,.....	9,463 04
Balances due from specie paying banks,	6,901 01
	<hr/>
	102,567 02
Banking-house and lot,	5,637 50
do. furniture, &c.	3,028 32
Bills of broken banks, &c.	124 00
	<hr/>
	<u>\$435,201 77</u>

DUE FROM THE BANK.

Stock paid in,.....	\$75,000 00
Bank notes in circulation,.....	214,924 00
Nett profits on hand,.....	15,355 40
Balances due other banks,	19,448 58
Individual credits,	110,194 93
In suspense,	278 86
	<hr/>
	<u>\$435,201 77</u>

Dutchess County, ss.

James Emott, president, and Walter Cunningham, cashier of the Dutchess County bank, being duly sworn, depose and say, that the foregoing is a full and true account of the funds and property of the bank ; that the amount of capital stock subscribed, is \$150,000, of which one-half is paid in; and that the amount of specie above mentioned, is bona fide the property of the bank, and has not been borrowed or in anywise obtained with the view to make this return,

and also that at no time since the last return has there been in the bank, of its own property a sum in specie less than \$27,000. And these deponents further say, that since the last annual return, the bank has kept an account in the city of New-York, in the Phoenix bank, in order to have its bills receivable and current in New-York, so that its bills might pass in the State and elsewhere without discount; and the directors have accordingly ordered such surplus funds as were not needed at the bank for its ordinary business, to be sent to the Phoenix bank to redeem its paper there; and that the sum above stated, as being in the Phoenix bank are the funds of this, bank placed there for the aforesaid purpose. And these deponents further say, that the balances due other banks, as stated above, are for collections recently made for such banks and not yet remitted.

JAMES EMOTT,
WALTER CUNNINGHAM.

*Subscribed and sworn this }
26th day of Feb, 1831. }*

LEONARD MAISON,
Master in Chancery.

No. 239.

IN ASSEMBLY,

February 28, 1831.

ANNUAL REPORT

**Of John Betts, an Inspector of Fish for the city
and county of New-York.**

To the Honorable the Legislature of the State of New-York.

**Return of fish inspected from 1st January, 1830, to 1st January,
1831, viz :**

406 barrels No. 3 mackrel.

All without bounty.

**JOHN BETTS,
*Inspector.***

New-York, Feb. 25, 1831.

[A. No. 239.]



IN ASSEMBLY,

February 28, 1831.

ANNUAL REPORT

**Of Thomas Moore, an Inspector of Fish for the city
and county of New-York.**

To the Honorable the Legislature of the State of New-York.

Return of fish inspected by me from the 1st January, 1830, up
to the 1st January, 1831, viz :

569 barrels No. 3 mackerel.

101 " No. 1 "

42 " herrings.

50 " codfish.

Total 762 barrels.

THOMAS MOORE,
Inspector.

New-York, Feb. 25, 1831.

[A. No. 240.]

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It is not clear how to interpret the results of the first two studies. The results of the first study may be due to the fact that the sample was not representative of the general population. The results of the second study may be due to the fact that the sample was not representative of the general population.

1. *Abstract* – This paper presents a new approach to the problem of finding the optimal control policy for a system with a continuous state space and a discrete action space. The approach is based on the use of a neural network to approximate the optimal policy. The network is trained using a reinforcement learning algorithm. The results show that the network is able to learn the optimal policy for a wide range of problems.

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IN ASSEMBLY,

February 28, 1831.

ANNUAL REPORT

Of Israel Sloan, jr. an Inspector of Beef and Pork
for the county of Onondaga.

To the Honourable the Legislature of the State of New-York.

I, Israel Sloan, jr. inspector of beef and pork, in and for the
county of Onondaga, do

RESPECTFULLY REPORT:

That I have during the year ending on the first day January last
past, inspected in said county, the following number of barrels of
beef and pork, viz:

Mess pork,.....	407 barrels.
Prime pork,.....	958 "
Cargo "	4 "

Total amount of bbls. pork inspected, 1,369

Mess beef,	451 barrels,
Prime "	1,086 "
Cargo "	47 "

Total amount of bbls. of beef inspected, 1,584

Total amount of barrels of beef and pork inspected, 2,953

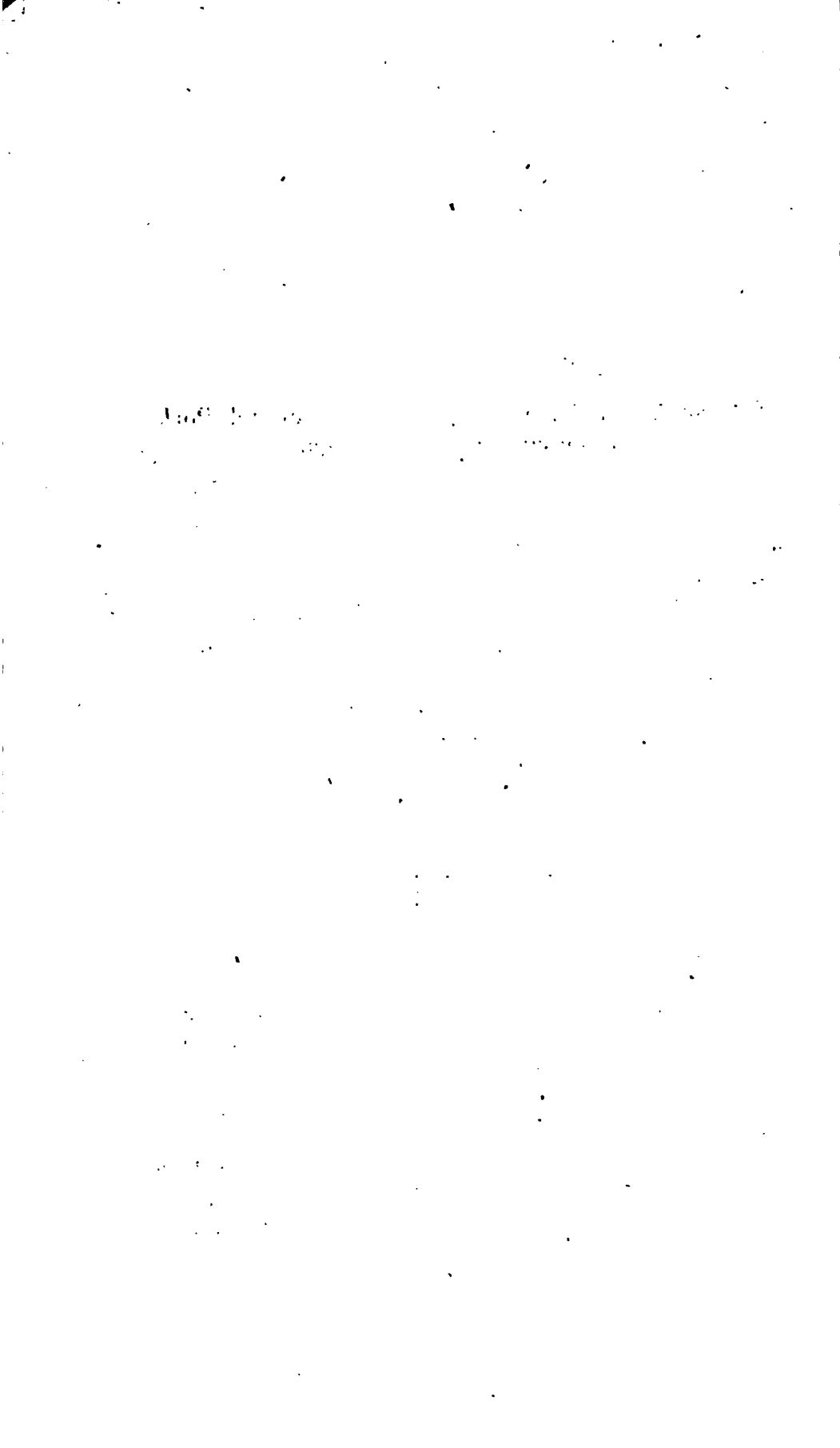
I do further report, that the average value of said pork, as near as
I can estimate, is ten dollars per barrel, making in all \$13,690 00.
And that the average value of said beef is seven dollars per barrel,
making in all \$11,088 00,

I do further report, that the whole amount of fees and emoluments
received from my said office, deducting actual expenses, is \$135.60.

ISRAEL SLOAN, JR.

Inspector.

Dated Pompey, Feb. 1, 1831.



IN ASSEMBLY,

March 4, 1831.

REPORT

Of the select committee on the Memorial of the corporation of the city of New-York.

The select committee, on the memorial of the mayor, aldermen, and commonalty of the city of New-York,

REPORTED—

That the memorialists ask the Legislature for the passage of the usual law annually called for, authorising them to raise and collect, by tax on real and personal property in said city, a sum necessary to defray the expenses attending the government thereof. This sum is estimated at four hundred and fifty thousand dollars : which, though large in amount, the committee find does not exceed the sum applied for at the last session of the Legislature.

It may be proper to state, that this sum to be raised from the property of the city, is “ necessary to meet the general expenses ; the principal part of which are annual and permanent.” And they may be classed under the following heads, viz : The expenses of domestic and foreign poor ; of the bridewell, penitentiary, and criminals ; streets and roads ; common schools ; watching and lighting the city ; salaries of officers ; docks and slips ; fire department ; interest of city debt ; markets ; city courts, and city and county contingencies. It is reasonable to be expected that the municipal expenses attending the government of a population of upwards of “ two hundred thousand, must be great, and that they will gradually increase with the growth of the city.”

To check, and gradually diminish these expenses, by a judicious economy, are considerations of primary importance in every government. And the committee have every reason to believe, that this consideration has not been neglected by the city government during the last year. The best evidence of this conclusion, is the fact that the amount applied for, does not exceed the amount of the last preceding year.

Your committee, being satisfied that the sum called for by the memorialists, is not greater than is required to meet the current demands of the city, are of opinion that the prayer of the memorialists ought to be granted, and have accordingly, prepared a bill, and instructed their chairman to ask leave to introduce the same.

ABRAHAM CARGILL, *Ch'n.*

IN ASSEMBLY,

March 4, 1831.

REPORT

Of the committee on the memorial of the common council of the city of New-York, respecting the qualifications of voters.

The select committee, to which was referred the memorial of the common council of the city of New-York, respecting the qualifications of voters at charter elections,

REPORT :

That upon an examination of the provisions of the amended charter of the city of New-York, relative to the powers and duties of the inspectors of charter elections, no authority, in the opinion of your committee, is given to them to administer an oath to a challenged elector. The charter takes effect in April next, in which month the election must be held. If the inspectors should not possess the power to test, by oath, the qualifications of an elector, it would certainly lead to the introduction of illegal votes. All doubt, on this point, should be removed. A bill has been prepared by the committee, which they ask leave to introduce.

[illegible][illegible]

IN ASSEMBLY,

March 4, 1831.

REPORT

**Of the select committee on the memorial of the
common council of the city of New-York.**

The select committee, consisting of the delegation from the city of New-York, to whom was referred the memorial of the common council of said city, for the passage of a law authorising a tax of three-eighths of a mill, in addition to that already authorised, for the support of common schools,

RESPECTFULLY REPORT:

That they have examined said memorial, in which it appears that the common council have made the application, in compliance with the request of their fellow-citizens; that the accommodations for the common schools are insufficient; that six new buildings will be required to be erected at an expenditure of \$60,000 to meet the necessities of the establishment. Your committee further report from their own knowledge of facts, they are satisfied that the application ought to be granted. The liberal support of common schools in that city is desired by the citizens, and the imposition required for the purpose will cheerfully be met by the owners of property subject to taxation. Every cent of money expended for this laudable purpose, is more than saved by reducing the expenditures of the prisons and almshouse, whose tenants are to a great extent composed of the ignorant and uneducated.

Your committee have prepared, and ask leave to introduce a bill, in pursuance of the prayer of the memorial.

THE NEW YORK PUBLIC LIBRARY
ASTOR LENOX TILDEN FOUNDATIONS

IN ASSEMBLY,

March 7, 1831.

REPORT

Of the committee on the petition of the Medical Society of the city of New-York, &c.

The committee to whom was referred the petitions severally presented by the Medical Society of the city and county of New-York, the College of Physicians and Surgeons of New-York, and the State Medical Society, praying that the Legislature would make some legal provision for supplying the medical schools with subjects for the study of practical anatomy,

RESPECTFULLY REPORT :

That they have examined the several petitions with the care and attention due to the importance of the subject they embrace. More than twenty years ago, a medical school was established in the city of New-York, under the auspices of the State, for the purpose of furnishing to our medical youth, within the bounds of our own State, the means of obtaining a complete professional education.

This school has had many difficulties to surmount, which your committee do not think necessary at this time to particularise. Most of these, however, are now overcome, and it is the opinion of the *faculty* of the college, and the county society of New-York, that nothing is wanting to render the school equal to any in the United States in its advantages for students, but a liberal supply of subjects for the better cultivation of the sciences of anatomy and surgery.

A thorough knowledge of anatomy is the very *basis* upon which the skill, and safe practice, of the physician and surgeon are predi-
[A. No. 246.] 1

ated. No other accomplishments, however splendid, can, in any considerable degree, compensate for the want of this knowledge. As well might we expect a person, ignorant of the construction of a time piece, to remedy any derangement in its movements, as that one, ignorant of the structure and mechanism of the human body, could clearly understand its diseases, or repair its injuries. No man, in his senses, would willingly undertake a voyage in one of our steam-boats, in charge of a person who did not understand the construction and management of the steam engine. The human system is much more complex in its structure than the steam engine, and liable to irregularities and accidents, as formidable to encounter, and as fatal in their results. How is it, then, that we are so careful of our safety in the one case, and so indifferent in the other ? It is, because the danger in the one is more present to our senses than in the other ; we can in a moment realize the horrid effects of a steam-boat explosion, but have only an indistinct notion of the horrors of submitting to the operations of a blundering surgeon, or falling into the hands of an ignorant physician.

No individual, out of the medical profession, can understand, in how many instances lives are lost, from the want of skill in the medical attendants ; the poor patient has gone to that " bourn from which no traveller returns," and can never appear in this world as a witness against his ignorant destroyer, or to tell his tale of sufferings. Patients often die of diseases which might be remedied by a timely operation. But to operate with safety and skill, requires, on the part of the practitioner, an intimate knowledge of the situation and structure of all the important organs of the body, and that can alone be acquired by a frequent examination, and dissection of dead bodies. If a surgeon requires skill to perform an important operation with ease and safety, he must acquire it either on the living or dead. Now, which is the more rational, the more humane course ? Common sense at once decides, that it is much more proper to operate on the insensible remains of the dead, than to torment and mangle the living.

To the practitioner of physic and midwifery, an intimate acquaintance with the structure and functions of the human body, is equally useful, although not so obviously necessary as to the surgeon. In short, your committee are firmly of the opinion that no medical school can flourish, however learned may be its professors, which does not afford abundantly the means of pursuing anatomical inqui-

ries ; and that no medical man can be duly qualified to discharge his duties, who is not well instructed in the science of anatomy. No medical schools in the United States are less provided for, in regard to the means of obtaining this necessary acquirement, than the two schools established in the state of New-York. It is declared felony by law to disturb the repose of the dead, and the only sources from whence our colleges can legally obtain subjects, is in our state prisons. The bodies of convicts dying there, and not claimed by relatives within twenty-four hours, are by law given up to the agents of the medical colleges. And these, scanty and inefficient as they are, are the only means at present afforded by the State, to the medical student, to become conversant with the most important branch of his profession. There are at present nearly four hundred students attending lectures at the two colleges of this State, and the bodies obtained from both state prisons would not be adequate to enable fifty students to acquire the necessary skill in anatomy and surgery. The number of deaths during the session of the colleges, does not often amount to more than three or four, and some of these may be claimed by relatives. The bodies of those who die in summer, and in the interval between the sessions, cannot be used with advantage.

It is therefore clear to your committee that some provision ought to be made, otherwise our medical schools may close their doors, and we must either be contented with ignorant physicians and surgeons, or our youth must resort to other states or countries, to obtain that which their own native state denies them.

There being no adequate supply of subjects provided by law, the teachers of anatomy are sometimes compelled either to give up the lecture room, and dissecting knife, or resort to illegal means of making up the deficiency. It is unnecessary for your committee to say what these means are. It is well known that in New-York, and other parts of the State, the public mind has, during the past winter, been in a great state of excitement, in consequence of reports, in all probability unfounded, of attempts upon the living to supply the dissecting rooms. We do not believe that in this country, any one's life was ever taken for such a purpose. But the dreadful fact that such means have been resorted to in Great-Britain, in consequence of the severity of laws, similar to our own, in relation to the exhumation of the dead, suggests to us the warning, not to hold out any temptation to perpetrate the same crimes.

The *lowest* and most *abandoned* of the community, alone, could be induced to engage in procuring subjects for the dissecting rooms. And the risk attendant on that employment is now so great, that even these can only be engaged at the most extravagant remuneration.

When the danger of taking up a dead body is greater than that of murdering a living one, there can be no doubt that in every country, *wretches* will be found, who will pursue the safer course, entirely regardless of the enormity of the crime. It is impossible for the teachers of anatomy to know whether the bodies brought to the public dissecting rooms, have come to their end by force, or by natural causes.

One thing is clear. We ought not to institute medical schools, unless we furnish them with the means necessary to accomplish the objects for which they were established.

It is also worthy of notice, that unless public schools afford to the medical students the means of obtaining a thorough knowledge in the science of anatomy, the practice of taking up dead bodies, and of private dissections, will, as a matter of necessity, be continued to the disturbance of private feeling and public peace.

While the law remains as it now is, limited, and denying any extension of privilege on this subject, no one is secure of repose, not even in the grave. It is therefore to prevent the necessity of such outrages on the remains of the dead, and the laceration of the most sacred feelings of relatives, that your committee recommend that the prayer of the petitioners may be granted.

They solicit that the bodies of vagrants, persons having no relatives, whose feelings can be wounded thereby, may be given up to the public medical schools for dissection, provided no request to the contrary has been expressed before death, and provided no friend within forty-eight hours claim their remains.

It is believed that if a law be passed to authorise the agents of the two medical colleges in this State to receive the bodies of those who die in the New-York alms-house and penitentiary, without relatives, or any *ties* to society, both schools would be adequately supplied, the necessity of resorting to exhumation would be done away; our medical schools would be enabled to equal, if not surpass, the first schools in the Union; our medical men would become better

qualified to perform their arduous and responsible duties ; public health would thus be promoted, and we should no longer have our feelings harrowed by such stories as have for the last winter frightened the young and the credulous, and have even made the *aged* and the *wise* shudder at the possibility of their reality.

In France and other countries, where such a custom prevails as is here recommended, the disturbance of private graves is never heard of, or even apprehended.

Your committee are of the opinion that the prayer of the petitioners can be granted without committing any outrage upon the sympathies of the community, or disquieting in any way the feelings of the philanthropist.

In England, and in one of our sister states, enlightened measures are now pursued in relation to this subject, and your committee would indulge the hope, that as New-York is foremost among all the states of the Union in population, wealth and enterprise, she will not be the most backward in the promotion of *science* and the *liberal arts*.

Influenced by these views, your committee beg leave to introduce a bill.



IN ASSEMBLY,

March 4, 1831.

REPORT

Of the Select Committee on the Petition of the corporation of the city of New-York.

Mr. Ostrander, from the select committee, to whom was referred the petition of the mayor, aldermen and commonalty of the city of New-York, praying for the passage of a law to authorise the expense of boring for water to be assessed on the inhabitants,

REPORTED—

That the committee have examined the subject referred to them, from which it appears that the memorialists have found it expedient and necessary for the purpose of procuring pure and wholesome water, to bore for water in some parts of the city, instead of erecting wells and pumps. And as the existing law of the State makes no provision for assessing and collecting the expense for boring, upon the neighborhood intended to be benefitted thereby, the memorialists are therefore desirous that the provision of the law should be so extended as to authorise the memorialists to assess to the owners and occupants of houses for the expense, and to collect the same, as is now authorised by law, with respect to public wells and pumps in said city.

You committee, are therefore, of opinion that the prayer of the petitioners is reasonable and ought to be granted, and for that purpose have prepared a bill, and ask leave to introduce the same.

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IN ASSEMBLY,

March 2, 1831.

STATEMENT

Of the Funds and Property of the New-York Chemical Manufacturing Company, 1st Feb., 1831.

DR.

Chemical manufactory,	\$100,000 00
Due from factory,	50,116 13
Due bond receivable,	1,600 00
Loans and vouchers counted as cash,	2,861 08
Bills discounted,	711,062 75
Notes of city banks,	52,753 72
Notes of country banks,	1,158 00
Due from city banks,	33,020 89
Due from country banks,	2,723 58
Banking-house, fixtures, &c. &c.	9,499 74
Specie,	77,165 61
Profit and loss,	22,207 50
	\$1,064,169 00

CR.

Capital stock,	\$500,000 00
Due to city banks,	50,040 00
Due to foreign banks,	2,593 89
Dividends unpaid,	212 57
Bills in circulation,	250,459 40
Individual depositors,	260,863 14
	\$1,064,169 00

B. P. MELICK, *President.*
A. CRAIG, *Cashier.*

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ufactory.

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Refined salt petre.	Sal. tartar.	Alcohol and bleaching li- ters.	Aqua ammonia.	Epsom salts and refined borax.	Copperas.	Distilled vinegar.	
.....	\$8,941 25
.....	15,610 82
.....	4,959 48
.....	12,165 09
.....	4,048 15
43,262	3,737 38
.....	1,104	134 13
.....	169	22 37
.....	961	133 65
.....	3,255	208 02
.....	galls. 321	80 48
.....	5	1 88
43,262	1,104	169	961	3,255	321	5	\$50,042 70

Na

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ated and account of

..... \$145,037 88
 17,682 29
 9,142 72

..... \$171,862 89
 sold since, 33,921 82

..... \$137,941 07
 37,941 07

..... \$100,000 00



IN ASSEMBLY,

March 7, 1831.

REPORT

Of the select committee, on the petition of the common council of the city of New-York, for the extension of the fire limits.

The select committee, consisting of the members attending this House from the city and county of New-York, to whom was referred the memorial of the mayor, aldermen and commonalty of the said city, praying for a further extension of the fire limits,

REPORT :

The memorial sets forth that this application is founded on petitions of the inhabitants interested. The usual course heretofore, in relation to extending the fire limits in the city of New-York, has been, that upon application being made, the common council cause public notice to be given in the newspapers, to the end that all persons interested may have an opportunity to raise objections. If no sufficient objections be made, application is made to the Legislature for a law authorising the proposed extension. Such laws have, from time to time, been passed, as the city has increased in population and extent.

In the present instance, it seems that the usual practice has been pursued, and that no material objections have been offered to the enlargement of the limits as proposed. Believing that such enlargement would meet the approbation of those citizens who are most interested, and tend to the prevention of fires, and increase the value of property within its boundaries, the committee recommend the passage of the bill as prayed for by the common council, and which they now ask leave to introduce.



IN ASSEMBLY,

March 7, 1831.

REPORT

Of the select committee on the Petition of the Stratford Manufacturing Company.

Mr. Potter, from the select committee, to whom was referred the petition from sundry inhabitants of the county of Montgomery, praying for an act to incorporate the Stratford Manufacturing Company, for the purpose of manufacturing leather,

REPORTED :

That from information derived from various sources, your committee are of opinion that no section of the State, possesses greater advantages or stronger inducements for the successful manufacture of leather. The Big Fish creek is a large and permanent stream of pure, soft water, offering the advantages of great hydraulic power, peculiarly adapted to that purpose ; that abundance of bark can be obtained in its immediate vicinity, at a very low rate ; that the distance of said tan works from the Erie canal, will be but ten miles. A variety of concurrent circumstances, to wit: the low price of bark, the contiguity to the canal, and a market, with other facilities, show that the incorporation of the company will be followed by consequences highly beneficial to such enterprising capitalists, who may embark in a project, so useful in itself, and beneficial to society.

That your committee are informed, that leather manufactured in the State of New-York, commands a higher price for exportation, as well as home consumption, than any manufactured throughout the Union ; and on this account, the manufacturers of this article, in the New England states, have found it to their interest to send their leather to the city of New-York for inspection.

That an establishment of this kind, under every circumstance of the case, will aid, in a great measure, the settlement of an extensive tract of unproductive lands, and add, in a great degree, to the revenue of the "great Erie canal," by opening another source to an extensive business.

The committee are of opinion, that the prayer of the petitioners ought to be granted, and have prepared, and ask leave to introduce a bill accordingly.

IN ASSEMBLY,

March 8, 1831.

REPORT

Of the select committee on petitions for the appointment of a Measurer-General of grain for the city of New-York.

The select committee to whom were referred the several petitions of the purchasers and shippers of grain, and owners and masters of vessels carrying grain from the cities of Albany and Troy, and the villages of Lansingburgh and Waterford, and from Stuyvesant in the county of Columbia, for the appointment of a measurer-general of grain in the city of New-York, and a remonstrance thereto of certain dealers in grain of the city of New-York,

RESPECTFULLY REPORT :

The petitioners represent, that they have experienced much inconvenience, and sustained many losses from the manner in which the measurement of grain is at present conducted in the city of New-York.

That although great care is taken when receiving grain on board of vessels, to have full and liberal measure, and to have it hold out when remeasured in New-York, yet it very often happens that on such remeasurement by the measurers for that city, a deficiency in quantity is reported, and in some cases of as much as eighty bushels.

That it has sometimes occurred, when a sale has been made by sample, (which is the usual mode of selling grain in the city,) if during the delivery and measurement of the grain there should be a fall in the price of the article, the measurer has stopped, alleging that the grain was not as good as the sample, when no difference in

the quality did really exist ; thus subjecting the seller to great inconvenience, and compelling a sale of the residue at such reduced price as would suit the purchaser.

The petitioners trace the grievances of which they complain, to the manner in which that business is conducted in the city of New-York.

Almost every dealer in grain in that city has his own measurer appointed by the corporation, who generally is dependant upon his employer for support, who looks into the market, makes reports to his employer, and does the measuring. Sometimes a clerk or a hand in the store of the dealer receives the appointment and confines his duties as measurer, to purchases made by his immediate employer ; and it has been ascertained that grain measured by them, on being sold and remeasured in other cities, has exceeded by a number of bushels the measurement in the city of New-York.

The petitioners further represent, that the measurers are not only connected with, but are oftentimes purchasers and dealers in grain.

Your committee have been attended by several purchasers and shippers of grain, residing in the cities of Albany and Troy, and the villages of Lansingburgh and Waterford, and received evidence which has satisfied your committee of the truth of the matters set forth in the several petitions, and of the necessity of the interference of the Legislature to protect a most important branch of our trade from the inconveniences to which it is exposed, and to prevent a recurrence of losses and impositions to which a respectable portion of our fellow citizens have been subjected.

The committee, therefore, recommend the passage of a law, authorising the appointment of a measurer-general of grain for the city of New-York, whose duty it shall be to superintend the measurers, and to give them such instructions and directions as he may deem necessary, and to report to the common council of the city of New-York, any measurer who, in his opinion, shall violate or neglect, or be incompetent to perform his duties.

Prohibiting measurers of grain from purchasing or dealing in that article, or being in any manner connected with purchasers or dealers ; and making it the duty of the measurers to make monthly re-

turns to the measurer-general, of the quantity and kind of grain measured by them respectively, specifying the times when, and the names of the persons for whom the measurement was made ; and that the measurer-general shall make an annual report to the Governor, to be laid before the Legislature.

And your committee further recommend a suitable provision for the prompt determination of all disputes, which may arise between the measurer and purchaser, and between the buyer and seller, respecting the measurement of grain in the city and county of New-York.

Your committee have directed their chairman to prepare a bill in accordance with their views, which he now asks leave to introduce.

Respectfully submitted.

PETER GANSEVOORT, *Chairman.*



IN ASSEMBLY,

March 8, 1831.

REPORT

**Of the Commissioners of the Land-Office, on the
petition of Amos Haskins.**

The Commissioners of the Land-Office, to whom was referred by the Assembly, the petition of Amos Haskins,

RESPECTFULLY REPORT :

That the petitioner claims compensation at the rate of \$12.25 per acre, for an alleged deficiency of four acres three roods and nine perches, in a piece of land which he purchased from the State.

On the fourth day of October, 1815, Benjamin Seelye and Anna his wife, for securing the repayment of a loan of \$1,000, mortgaged to the people of this State, two pieces or parcels of land, situated in Queensbury, in the county of Warren ; the one said to contain fifty acres, and the other forty-eight acres of land. Both parcels of land were described in the mortgage by metes and bounds. The mortgage was afterwards foreclosed, and the property purchased for and on behalf of the people. The petitioner afterwards applied to the Commissioners of the Land-Office for the purchase of those lands, and offered to pay twelve hundred dollars for the same, being the amount at which the land had been appraised, but less than the amount of principal and interest then due the State on account of said loan. And on the eighteenth day of July, 1823, a sale was completed at that price ; a part of which was then paid, and the residue secured by the bond and mortgage of the petitioner. A patent was issued to the petitioner, in which the two pieces or parcels of land were described in the same manner they had been described in the original mortgage.

The fifty acre piece, which is alleged to be deficient in quantity, was described as follows : " Beginning at the S. W. corner of a piece or gore of land granted to Joshua Harris, from thence running north one degree W. 21 ch. 22 links to a tract of land granted to John Lawrence and others ; then along the same north 89 degrees east, 23 ch. and 58 links ; then S. 1 degree E. 21 ch. and 12 links ; then S. 89 degrees W. 23 ch. and 58 links, to the place of beginning, containing fifty acres of land." Annexed to the petition is a survey bill, from which it appears that the east and west lines of this piece of land being controlled by the other boundaries mentioned in the description, are deficient two chains and four links in length, making the deficiency in quantity before mentioned.

Whether this survey is accurate or not, the Commissioners of the Land-Office are unable to determine, but they have ascertained that the length of the west line, as described in the conveyance to the petitioner, corresponds with the description of the same line in the patent granted to Joshua Harris, in 1790 ; and the survey upon which that grant was made was a public survey, made under the direction of the Surveyor-General, by his sworn deputy.

But if in truth there is such deficiency as the petitioner represents, the Commissioners of the Land-Office are of the opinion that no relief ought to be granted. The quantity of land mentioned in this patent was mere matter of description, and there was no warranty of the number of acres included within the given boundaries. If the lines described in the patent had been found to contain sixty instead of fifty acres, the grantee would have held the whole without any liability to pay for the excess.

This is not a case where there was a defect of title, or where the title has failed. There was a known and well ascertained place of beginning, (the southwest corner of the land granted to Harris,) and also a known and well ascertained place for the northern boundary, (the land granted to Lawrence and others,) and the rule is fully established that any well ascertained monument or object, as a rock, a stream, a clearing, or a former grant, will control the courses and distances mentioned in a deed, when they come in conflict. And in this case, the grant was to commence at one and extend to another known boundary ; and whether the distance was greater or less than that mentioned in the deed was unimportant. The grantee would hold all within those boundaries, although it might embrace 10 or

20 acres more than he paid for ; and he could hold no more, although it should fall short as much.

There can be no doubt that many of the grantees of the State have obtained a greater quantity of land than the number of acres mentioned in their patents, and there does not seem to be any injustice in leaving the rule that has been mentioned, to operate in favor as well as against the State, unless a case shall arise where the deficiency is so great as to induce the belief of some palpable error.

In this case, there is nothing to show that the petitioner bought at any price by the acre. He probably knew the lands and their boundary, and offered such gross sum as he was willing to pay ; and it may be added, that he produces no survey of the parcel of 48 acres included in the same grant ; and it is not impossible that he has in that an excess equal to the deficiency for which he claims compensation.

All which is respectfully submitted.

GREENE C. BRONSON, *Att'y General.*

A. C. FLAGG, *Secretary.*

SIMEON DE WITT, *Surv'r General.*

SILAS WRIGHT, *Jr. Comptroller.*

Albany, March 7, 1831.



IN ASSEMBLY,

March 4, 1831.

REPORT

**Of the committee on public lands, on the petition of
John Moon.**

Mr. Tyler, from the committee on public lands, to which was referred the petition of John Moon,

REPORTED—

That upon due consideration it is found that a lease was executed by the Surveyor-General, pursuant to an act passed the third day of April, 1821, which said lease is now held by the petitioner for certain lands in the St. Regis reservation. It appears also that the term of said lease is nearly expired, and that the lands are not now wanted for military purposes.

Your committee therefore, think the request of the petitioner for the extension of his lease reasonable, and have prepared a bill accordingly.



IN ASSEMBLY,

March 4, 1831.

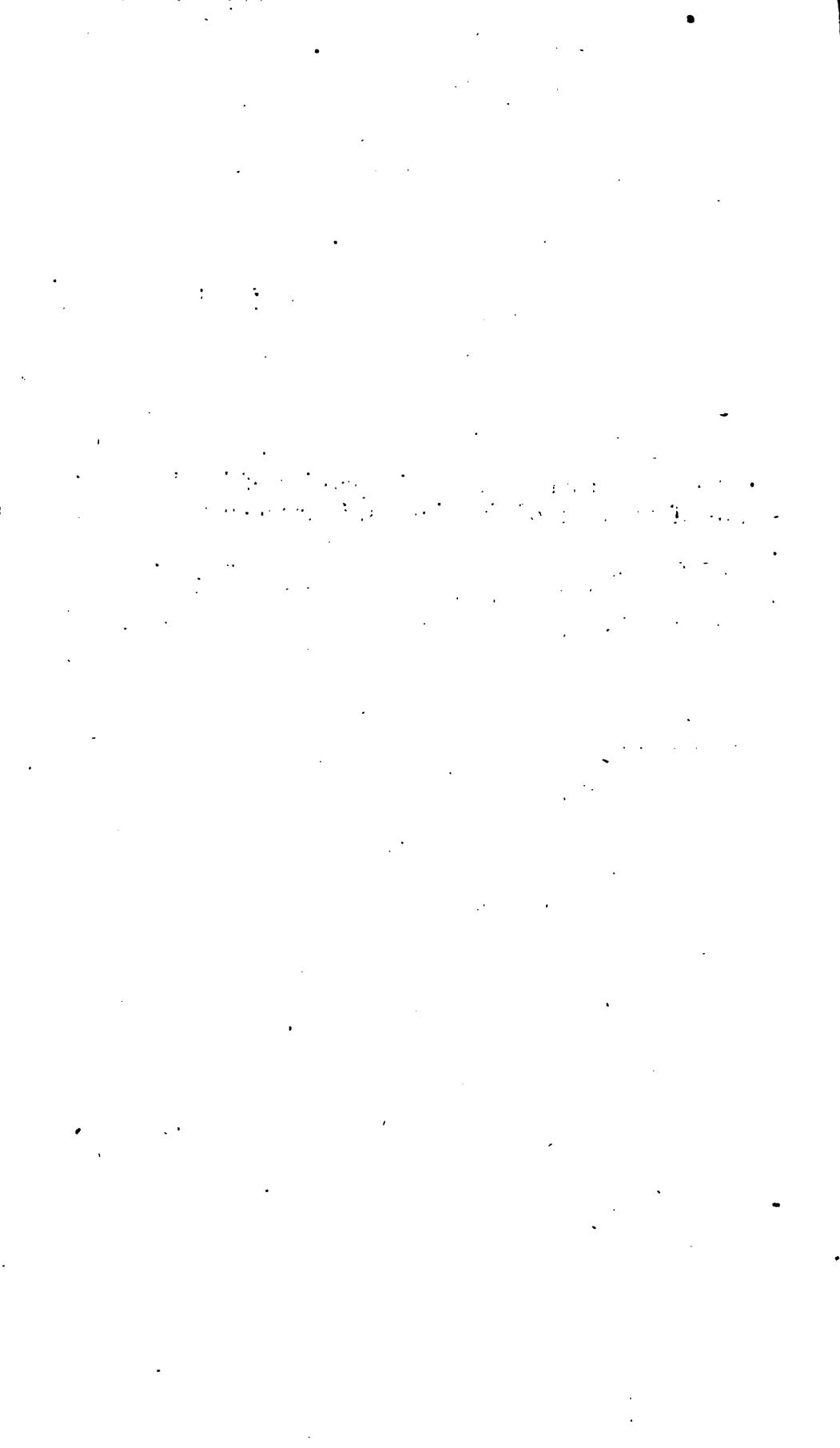
REPORT

Of the select committee on the petition of inhabitants of the town of Farmington, Ontario county.

Mr. J. C. Spencer, from the select committee to which was referred the petition of the inhabitants of the town of Farmington, in the county of Ontario,

REPORTED—

By an act passed in 1827, commissioners were appointed to build a town-house for the town of Farmington, when the inhabitants should have voted the requisite amount to be raised by tax. Perhaps some doubt might arise from the face of the act, whether the site was to be determined by the commissioners, or by the inhabitants of the town. The petitioners who compose a large portion, and it is believed a large majority of the inhabitants, pray that the voters of the town may be authorised, in town-meeting, to determine the site for the erection of such town-house. The prayer of the petition appears reasonable and proper, and they have directed their chairman to ask leave to introduce a bill in conformity therewith.



IN ASSEMBLY,

March 4, 1831.

REPORT

Of the select committee, on the memorial of the mayor, aldermen and commonalty of the city of New-York, relative to the City-Hall of said city.

Mr. Bogert, from the select committee, consisting of the members attending this House from the city and county of New-York, to which was referred a memorial of the mayor, aldermen and commonalty of said city, in relation to the City-Hall of the said city,

REPORTED—

It appears from the petition, that the building usually called the City-Hall, does not afford sufficient accommodation for the various courts which are required to be held “at the City-Hall of the city of New-York,” and the public offices connected with them. The common council have accordingly caused parts of the public buildings in the immediate vicinity, within the Park, to be fitted up for the accommodation of courts of justice and public offices. The petitioners ask that an act may be passed, by which the said buildings may be considered for all legal purposes, as part of “the City-Hall of the city of New-York.” Without such a law the courts cannot be held in the apartments provided for them. The committee believe that the convenience of the public business would be greatly promoted by the prompt passage of the law prayed for. A bill has been prepared for that purpose, and leave is now asked to introduce the same.



IN ASSEMBLY,

March 5, 1831.

REPORT

Of the committee on the erection and division of towns and counties, on the petition of inhabitants of the town of Dryden, Tompkins county.

Mr. Remer, from the committee on the erection and division of towns and counties, to whom was referred the petition of sundry inhabitants of the town of Dryden, in the county of Tompkins, praying for a division of said town,

REPORTED—

The committee have had under consideration said petition, together with the remonstrance against said division.

The town of Dryden contains a territory of one hundred square miles, with a population of four thousand eight hundred and twenty-two inhabitants.

The committee are decidedly of the opinion that a division of said town as prayed for, would very much accommodate a large portion of the inhabitants of said town in the transacting of their ordinary town business. The committee have therefore prepared a bill, and directed their chairman to ask leave to introduce the same.

to the effect that the Government of the United States
has no objection to the proposed amendment to the
Treaty of Commerce, 1892, between the United States
and the Republic of China.

IN ASSEMBLY,

March 5, 1831.

REPORT

Of the select committee, on the memorial of the common council of the city of New-York, relative to paupers, &c.

Mr. Cargill, from the select committee to which was referred the memorial of the mayor, aldermen and commonalty of the city of New-York, praying for the passage of a law relative to paupers, vagrants, and other matters,

REPORTED :

That they have examined the said memorial, and the proposed act accompanying the same, and have made due inquiry into the grounds and reasons therefor, from which it appears that, in the opinion of the police magistrates, the commissioners of the alms-house and bridewell, and the officers of the criminal courts in the city of New-York, it is expedient for the municipal and police regulations of the said city, that certain alterations should be made in the existing laws relative to vagrants, paupers, the punishment of certain offences, the power of certain magistrates, and the regulation of certain modes of dealing or business.

The committee deem it unnecessary to enter into detail respecting some of the new provisions thus proposed, believing that their obvious propriety must be at once conceded. They would briefly advert however, to the reasons upon which others contained in the proposed act have been suggested. By the existing law, magistrates have no power to commit vagrants to prison for more than sixty days. The class of persons coming within the meaning of the term vagrants, embraces many notorious offenders against the peace and morals of the

community, and the above term of punishment is found inadequate to the evil resulting from their being at large. It is proposed therefore to give those magistrates power, in their discretion, to imprison such persons to the extent of six months. It is also proposed to vest the police magistrates with the power to require persons threatening to commit offences against the person or property of another, to give security to keep the peace. This power is now confined to the court of sessions, and the proposed change will only restore to the justices for preserving the peace in the city of New-York, a power which they formerly exercised with good effects.

The existing law authorises persons *threatening* to desert their wives and children, to be treated as disorderly persons, and to be dealt with accordingly. No provision is made for the treatment of those who actually do desert their families. The difficulty occasioned by this circumstance has been experienced, and a provision to meet cases of the latter description, (which unfortunately are but too common,) is contained in the proposed law.

It has been found that many paupers getting admission to the alms-house in a state of absolute want and disease, after being cured of the ailments by medical treatment and restraint from intemperance—and after being comfortably clothed at public expense, get discharged and return at once to their evil habits. The consequence is, that they shortly return upon the public, and have to be again provided for, cured and clothed, and in many instances this process is frequently repeated.

To remedy this imposition upon public charity, the commissioners who manage that institution have recommended as the only effectual means, that power be given to them to detain such paupers as are able bodied and without families to support, at such labor as may be suitable for them, until the expensés which they have occasioned may be in some degree repaid. The object is not however to turn the labor of such persons into a source of profit, so much as to deter them from their idle and intemperate habits. The comforts of the alms-house are obviously a luxury to many of those worthless characters, and it is hoped that the power to retain them at work, when able to work, may prevent the public charity from being abused as heretofore. A provision for this purpose is contained in the law applied for. It is proposed also to extend the usefulness of the court

of special sessions, by giving it cognizance (with the consent of the party charged) of cases not now within its jurisdiction.

The said law also provides for increasing the term of punishment for petty larceny committed in the said city, to any term not exceeding two years; restoring in this respect the old law. And your committee are of opinion that this would be proper, confining such enlarged power to cases of second offence.

They would state that it frequently occurs that pickpockets are convicted merely of petit larceny, from the small amount of plunder actually obtained, although the intent was to commit an extensive grand larceny. Persons so convicted are often old offenders, and the law, as applies to them, cannot well be too rigorous. The present law to prevent masquerades being confined in its operation to places for admission to which money is received, which limit occasioned the evasion of the intent and object of the law, a more comprehensive and specific enactment on this subject is applied for.

The common council of the city of New-York ask also for power to regulate certain occupations and modes of traffic, as appears from the said proposed act. On this subject, the committee would merely remark, that they can see no danger or impropriety in conferring such power upon that body; being well convinced that it will be exercised discreetly, and with a due observance of the wants and rights of all classes of the community over which they preside.

The committee therefore believing that the alterations and new enactments applied for by the memorial referred to them, have been suggested by the experience of those officers who have the best means of judging of their practical utility, and they being also sanctioned by the deliberations and approval of the memorialists as the magistrates of the city, do not hesitate to recommend that the law thus applied for, (with certain alterations which the committee have thought it proper to make,) should be passed, and they have directed their chairman accordingly to introduce a bill.



No. 260.

IN ASSEMBLY,

March 8, 1831.

REPORT

**Of the Comptroller on the petition of the settlers on
the Cawasselon tract of land.**

**COMPTROLLER'S OFFICE, }
Albany, 8th March, 1831. }**

THE HON. GEORGE R. DAVIS,
Speaker of the Assembly.

SIR—

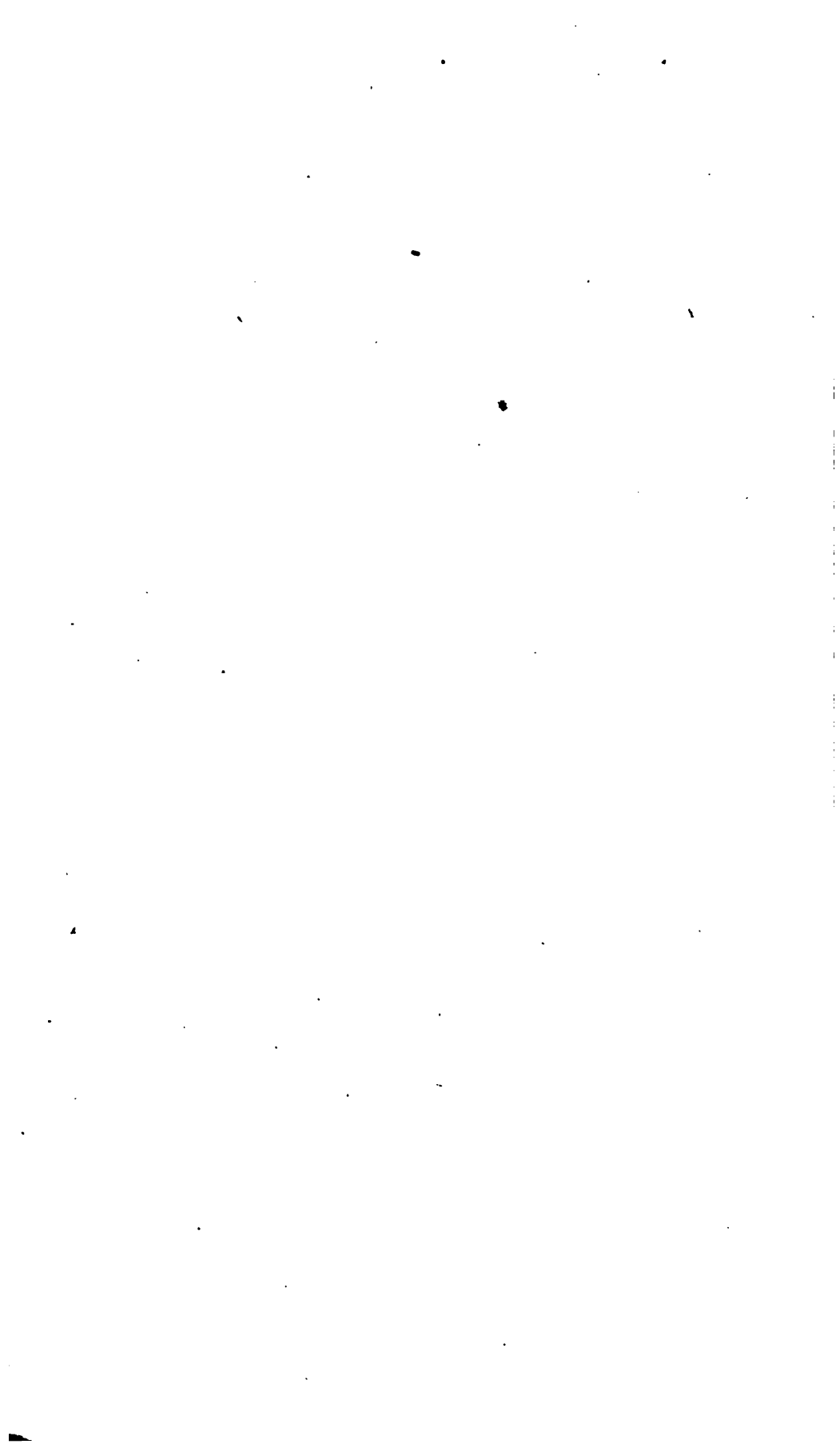
Herewith is transmitted a report upon the petition of the settlers upon the Cawasselon tract of land, referred to this office by the Honorable the Assembly, on the 17th ultimo.

I have the honor to be,

With great respect,

Your obd't serv't,

SILAS WRIGHT, JR.



REPORT.

STATE OF NEW-YORK, }
Comptroller's Office. }

The Comptroller, to whom has been referred by the Hon. the Assembly, the petition of Stephen Pray and others, settlers upon the tract of land purchased of the State in the fall of 1817, called the Cawasselon Tract,

RESPECTFULLY REPORTS :

That the petitioners allege that their lands were appraised previous to the sale by the State, at a time when all agricultural productions were very high, and when lands bore a value proportionate to the value of their products ; that very soon after their purchase, the prices of the produce of the farmer sunk in the market, and disabled them to pay the State the purchase money due from them, as they had anticipated. The petitioners further express the belief that their lands were appraised at a sum greater than their intrinsic value, and much higher than other lands in the vicinity, which had been sold by the State.

No particular object is pointed out in the reference of this petition to the Comptroller, and he therefore supposes that the facts connected with the purchase of this land by the State, with its sale from the State to the settlers, and with the progress of payments and collections since that sale, are what is expected from him. He has therefore made examinations, with a view to the giving of these facts, in a manner which will render them intelligible to the Legislature, and show their bearing upon the interests of the State, and which will reduce them within the narrowest limits possible.

The following table is prepared to show the name of the purchaser of each lot at the sale by the State, the quantity of land in each lot, the appraised value of each lot previous to that sale, the amount bid for each lot, and the difference between the amount of the appraisement and the amount of the bid in each case.

The sale was made on the 22d December, 1817.

<i>Name of Purchaser.</i>	<i>No. of lot.</i>	<i>Acres.</i>	<i>Appraisement.</i>	<i>Bids.</i>	<i>Excess.</i>
Gardiner Avery,....	1	138.1	\$1,519 10	\$1,580 00	60 90
do	2	119.4	1,074 60	1,085 00	10 40
do	3	152.3	1,827 60	1,845 00	17 40
Conrad Buyea,	4	119.1	1,071 90	1,085 00	13 10
Elisha Williams,	5	158.	1,106 00	1,106 00	
Adam Remensuyter, ..	6	148.9	1,489 00	1,500 00	11 00
John Buyea,	7	158.3	1,266 40	1,280 00	13 60
Peter Smith,	8	133.3	931 10	932 00	90
Isaac Valentine,	9	128.5	1,156 50	1,185 00	28 50
Peter Smith,	10	153.	1,224 00	1,224 00	
Samuel Post,	11	170.3	1,703 00	1,735 00	32 00
Sylvester Pettibone, ..	12	142.6	1,568 60	1,595 00	26 40
Asa Randal,	13	149.6	1,795 20	1,800 00	4 80
John McGregor,	14	148.6	1,337 40	1,545 00	207 60
Peter Smith,	15	164.3	1,150 10	1,151 00	90
do	16	165.5	1,158 50	1,159 00	50
do	17	138.5	1,108 00	1,108 00	
do	18	147.2	1,030 40	1,031 00	60
John Fort and Joseph Randal,	19	147.7	1,920 10	1,930 00	9 90
Ezra Chaffe,	20	146.6	1,759 20	1,770 00	10 80
Peter Smith,	21	159.3	1,274 40	1,275 00	60
Jabez Lyon,	22	178.8	1,430 40	1,535 00	104 60
John Downer,	23	158.6	1,110 20	1,165 00	54 80
		3426.1	\$31,011 70	\$31,621 00	\$609 30

From an examination of the names upon the table, and a comparison of them with the names signed to the petition, it will be seen that but very few of the persons who were the original purchasers of any of these lots are now settlers upon them, or among the petitioners for relief. It may, therefore, be somewhat difficult, if the Legislature should conclude that any deduction ought to be made from the prices at which these lots were sold, to determine to whom the allowances should be made. The fall of price may have happened while the original purchaser held the lots, and may have compelled him to sell at a price below that at which he purchased. In that case he and not the present holder would be entitled to the equitable relief. On the contrary, if the purchasers at the State sale transferred the lots, and they fell into the hands of the present holders before the fall in price of the lands, then the petitioners may be the persons entitled to relief. But if it should appear that the present holders have purchased since the fall in the price of agricultural products, complained of in the petition, and consequently since any diminution of the value of the lands which the change of the markets may have occasioned, even though they may have paid the prices for which the State sold; this fact would seem to be a bar to any claim upon the State arising from those causes. The petitioners surely will not urge that they purchased with an agreement to pay more than they thought the lands were worth at the time, nor that they have purchased with the design of availing themselves, in that way, of a claim upon the equity of the Legislature. If, therefore, the fact should be that the present holders, or any of them, have purchased since the causes of complaint made in the petition have been fully seen and their effects experienced, the inference would be very strong that the lands had not originally sold too high, while the consequence would unavoidably follow that such persons could have no claim upon the State, they not having met the disappointments which are urged as the ground of the claim. How most of these lots may be situated in this respect, the Comptroller is not informed, nor has he the means of acquiring the information, but he does find that two of these lots, to wit: No. 9 and 11, were on the 12th March, 1822, and nearly five years after the original sale by the State, resold by the Surveyor-General for the non-payment of interest, and were, upon that resale, bid in for the State, and that, on the 26th July, 1822, both these lots were purchased at the Surveyor-General's office by Nehemiah Huntington, for the amount due upon the lots respectively, including the costs of resale. This must have been after the principal fall in the

price of lands arising from the causes upon which the petitioners rely, or if it was not, then it would seem to the Comptroller that the diminution of value was at a period so remote from that of the sale, as to leave little ground upon which to insist that the State ought to be responsible for it. But all these considerations will suggest themselves to, and be duly weighed by the Legislature.

Another fact also to be discovered from an examination of the foregoing table of the appraised value of these lots, and of the bids upon them, will not escape observation. All but three of the lots sold for more than their appraised values, and some of them for amounts very considerably beyond the appraisement. This furnishes the clearest proof that the appraisers employed by the State to value these lands, were not more sanguine in their estimate of the tract than were the bidders at the sale. The aggregate amount of the sales, it is true, does not exceed by a very large sum, the amount of the valuations, but the excess, \$609.70, furnishes to that extent the best evidence that the appraisements were not, at the time, considered too high. But if the present holders purchased these lands from the bidders at that sale, and at such advances upon the price the State was to receive as they chose to ask, then a fall in the price of the lands might leave them upon their hands at a hard bargain. Still it is not seen that a loss, thus accruing, ought to be sustained by the State, and it would seem to the Comptroller that the dates of the respective transfers of these lots, and the prices at which those transfers have been made, ought to be known to the Legislature, before that body can judge safely of the claims of the present, or of any former holders to a remission from the sum agreed to be paid to the State, or indeed before it can be clearly determined whether or not any such claim has an equitable existence.

The State purchased this land of the second Christian party of the Oneida Indians, by a treaty made in March, 1817. In May, of that year, the land was surveyed and appraised, and in December, of the same year, it was exposed at public vendue and sold, as before mentioned. The payment to the Indians was either made at the making of the treaty, or as soon as the survey was returned, or now furnishes a part of that capital upon which the State annually pays them the interest in the shape of an annuity, and which it has paid since the time of the purchase. These payments cannot be affected by any reduction the Legislature may make in the price at which the lands were sold, as they are by treaty to be perpetual.

The Comptroller cannot suppose it necessary to go farther into the facts connected with this application, as the journals of nearly every Legislature, for several years past, contain detailed reports and statements of facts, in relation to the subject, and upon applications similar to the present, from the settlers upon this tract. For the last three years, concurrent resolutions of the Senate and Assembly have been passed, directing, upon certain terms prescribed therein, the stay of proceedings to collect the arrears of interest due upon these lots. The resolution for the two last years, has been upon the condition that two years interest should be paid in each year; and the resolution of the last Legislature is made to reach the final payment of all the interest due and in arrear, provided the settlers shall continue to pay two years interest in each year, until the whole is paid.

A list of collection, in cases where more than two years interest is due, is now making, and the state of the accounts for these lots have been examined with a view to ascertain whether the debtors had complied with the terms of the resolution, or whether any and which of them were liable for a failure in the payments directed to be made. The result is, that payments have not been made upon two parts of lot No. 6, upon lot No. 11, upon fifty acres of lot No. 12, and upon two pieces of lot No. 22, and measures are about to be taken to collect the arrears of interest upon these accounts. It should be remarked, that there are two lots in this tract, numbered 24 and 25, which were not sold in 1817, nor until, the latter on the 2d April, 1823, and the former on the 16th March, 1824, from which it is inferred that these lots do not fall within the claims of the petitioners, and that no relief is asked as to them. But payments upon all the other accounts, for lots or parts of lots, in this tract, are found to have been made in compliance with the directions of the resolution, or so nearly so, as to induce the belief that justice to the persons charged, required that no compulsory means should be at present resorted to, with a view to forcing further collections.

These facts are communicated, that the Legislature may, should they desire to do so, give further directions in relation to the collections of interest, in the cases where payments have not been made according to the terms of their former resolutions.

All which is respectfully submitted.

SILAS WRIGHT, Jr.

Dated Albany, 8th March, 1831.



IN ASSEMBLY,

March 5, 1831.

REPORT

Of the select committee on the report of the Attorney-General made in obedience to a resolution of the Assembly of 21st February.

Mr. Harrison, from the select committee to whom was referred the report of the Attorney-General, made in obedience to the resolution of the Assembly of the 21st February, "requesting his opinion of the operation of an act concerning Richmond county, passed April 19th, 1825, and of an act amendatory thereto, passed April 7th, 1827,"

REPORTED—

That from the location of the quarantine establishment of the city of New-York, in the county of Richmond, the inhabitants of that county are subjected to expenses for the apprehension and support of persons who, being citizens, are committed to the jail of that county, for offences at the quarantine ground; and that no effectual provision for remuneration to the county for such expenses has hitherto been made.

In 1825, upon the petition of the supervisors, the Legislature passed an act authorising the health commissioners to repay to the supervisors the amount of such charges, provided the person for whom they were incurred, had contributed to the Marine Hospital fund; but as none of the persons who had been previously confined for offences committed at the quarantine, had paid hospital money, the health commissioners declined the payment of the bills rendered by the supervisors. Under these circumstances, application was again made to the Legislature, and in 1827, another act was passed

upon the subject, and which, in the opinion of your committee, was evidently intended to embrace the cases which had previously occurred; for it expressly provides that the charges shall be paid, whether the offender had contributed to the hospital fund or not. But, from some oversight in drawing the bill, it was made prospective only, and of course did not include the cases alluded to.

Your committee believe that the principle upon which remuneration is asked for by the county of Richmond in these cases, to be correct, and that the citizens of that county ought not to be called upon to bear these expenses. They believe also that it was the intention of the Legislature to provide for such remuneration by the acts of 1825 and of 1827. And that, as these acts have failed in accomplishing that object, they concur in the opinion expressed by the Attorney-General, "that further legislation is necessary upon the subject," and therefore ask leave to introduce a bill.

IN ASSEMBLY,

March 9, 1831.

REPORT

Of the standing committee on colleges, academies and common schools, on the petition of sundry inhabitants of Jefferson county.

The standing committee on colleges, academies and common schools, to whom was referred the petition of sundry inhabitants of the county of Jefferson, praying that a law may be passed authorizing the board of supervisors to levy a tax on said county for the benefit of Union Academy,

REPORTED :

That it is in contemplation by the petitioners, provided sufficient aid can be obtained, to establish the manual labor system at Union Academy, in addition to the other branches of education now taught there. Your committee have taken some pains to examine the subject, and bring into view the various advantages that is expected will result from such an important combination as learning and labor. It is a general evil, and becoming daily more prevalent, that the young men who attend our academic institutions, are very apt to shake off previously acquired habits of industry, and by those seductive arts that much leisure afford, run riot in indolence, and contract positive evils that will stick by them through life; thereby impairing and perhaps destroying their usefulness as members of society. If whilst our young men are learning the theoretic branches of science, they can also exercise their talents in a practical manner, during relaxation from study, it is confidently believed that not only their health will be promoted, but that their services in community as practical men will be correspondingly enhanced. In this age of

philanthropy, much is doing for the amelioration of the human family. A judicious system of education is the grand lever by which we are to sustain those immutable principles, justice and equality, engrafted on our flourishing republic by practical men. It is our sacred duty to foster education and industry, and when we are assured that in Switzerland the manual labor system is flourishing under the most happy and favorable auspices, our beloved country ought not to be behind in the pleasing employment of giving facilities to the poor and industrious young men of our State, thereby enabling them to obtain situations in life which they otherwise could not do, because the avail of their labor at such institutions during vacation from study go to defray the expenses of that study. All distinction is here abolished, the rich and the poor young man is subjected to the same labor and restrictions, and that foolish pride of superiority so foreign to republicans melt away under the influence of such an equal state of things. Your committee agree with the petitioners that legislative aid may be properly extended to such an institution, and therefore ask leave to introduce a bill.

No. 263.

IN ASSEMBLY,

March 10, 1831.

Albany, March 10, 1831.

SIR—The undersigned herewith present to the honorable the Assembly, a report made in obedience to a resolution of the last House of Assembly; a copy of which resolution is hereto annexed.

We have the honor to be, respectfully,
Your obedient servants,

A. C. PAIGE,
ELI SAVAGE,
PETER GANSEVOORT.

THE HON. GEORGE R. DAVIS,
Speaker of the Assembly.

[A. No. 263.]

1



COPY OF RESOLUTION.

STATE OF NEW-YORK, }
In Assembly, April 17, 1830. }

Resolved, That be, and they are hereby appointed a committee for the purpose of investigating the manner in which the Hospital in the city of New-York, and the Asylum connected therewith, have disbursed the funds which they have received from the State; and that said committee inquire particularly into the management, affairs and prospects of said establishment; the receipts and disbursements, and the propriety of making a different distribution of the funds now applied to their use, or of increasing such funds: and that they digest a system for the general and more economical distribution of such public charity; also, the propriety or necessity of erecting new establishments, more extensively to distribute such charities; the proper site for such new erection, if any should be found necessary, with a plan of the same, and an estimate of the probable expense: also, the propriety of requiring the physicians of said asylum to be appointed by the Governor and Senate: and that they report the result of their doings to the next Legislature.

By order,

FR. SEGER, *Clerk.*

In Assembly, April 19, 1830.

Resolved, That Mr. Paige, Mr. Savage and Mr. Gansevoort, be the said committee.

By order,

(A copy.)

FR. SEGER, *Clerk.*



REPORT.

REPORT of the committee appointed by the Assembly of the Legislature of 1830, to investigate the manner in which the Hospital in the city of New-York, and the Asylum connected therewith, have disbursed the funds received by them from the State; and to inquire into the management, affairs and prospects of said establishments; into their receipts and disbursements; and the propriety of making a different distribution of the funds now applied to their use, or of increasing such funds: and to digest a system for the general and more economical distribution of such public charity: Also to inquire into the propriety or necessity of erecting new establishments, more extensively to distribute such charities: to ascertain the proper site for such new erection, if any should be found necessary, and to prepare a plan of the same, together with an estimate of the probable expense: Also to inquire into the propriety of requiring the physicians of said Asylum to be appointed by the Governor and Senate, with directions to said committee to report the result of their doings to the then next Legislature.

The committee appointed to make the above mentioned investigations and inquiries, in obedience to a resolution of the last House of Assembly,

RESPECTFULLY REPORT:

That they have attempted a discharge of the duties imposed upon them, to the full extent of their limited means and knowledge. Not being prepared by previous reading, observation or experience, to investigate the more important of the subjects into which they were directed to inquire, they were compelled to obtain the requisite information for the greater part of this report, from medical gentlemen, and from works and treatises, coming almost entirely within the peculiar province of their profession. The labors of the committee were for these reasons attended with difficulty, and the completion of their investigations unavoidably delayed. The facts and information which they have been able to collect, together with the result of their inquiries and investigations, they submit to the Legislature, crude and

imperfect as they are, without claiming for them any merit of originality. The committee however indulge the hope, that should the facts and suggestions contained in this report, receive a favorable consideration from the Legislature, and lead to a philanthropic movement on the part of the State in behalf of the most afflicted and deplorable class of our fellow citizens, that of the insane poor, that more valuable and extensive developments will be made in the curative treatment of the insane, and that the whole subject will be then committed to persons who, by their education and attainments, will be competent to discharge the duties which such a reference imposes.

The committee feel that they would be deficient in their duty, were they to omit a public expression of their acknowledgments to several gentlemen of the *medical profession* of our own State, and to the gentlemen connected with the management of the hospitals for the sick and insane in our sister States of Massachusetts, Connecticut and Pennsylvania, for the facilities and information furnished and communicated by them to the committee in aid of their investigations.

As to that part of the duty of the committee which required them to investigate the manner in which the Hospital in the city of New-York, and the Asylum connected therewith, had disbursed the funds received by them from the State, and to inquire into their receipts and disbursements, the committee report, that in order to make the investigation required, they repaired to the city of New-York, and requested an interview with the Governors of the New-York Hospital. And the committee with pleasure state, that the Governors promptly complied with their request, and furnished them with every requisite facility in making the investigation with which they were charged. The Governors of the Hospital, at the request of the committee, furnished them with all the statements of their receipts and disbursements which could be obtained from their books and papers. The statements furnished, were a detailed account of expenditures from the 4th of February, 1793, to 1810, inclusive, and of receipts and disbursements, from 1811 to 1830, inclusive; an abstract of which is submitted with this report.

The Hospital in the city of New-York was prepared for the reception of patients on the 3d of January, 1791. The books of the Hospital contain no statement or account of expenditures, from the 3d January, 1791, to the 4th February, 1793, nor any particular account of the receipts from the 3d January, 1791, to 1810, inclusive.

But the receipts, as far as the State are concerned, can be ascertained from the laws making appropriations to the Hospital. The society of the New-York Hospital was incorporated by the Earl of Dunmore, Governor of the Province of New-York, on the 13th June, 1771. In 1772, the Legislature of the Province granted to the Hospital an annual allowance of \$2,000 for twenty years. The building intended for the reception of the sick in February 1775, when almost completed, took fire and was nearly consumed. By this accident, the society lost 7,000 pounds. The Legislature, in March of the same year, (1775) granted to the society the sum of 10,000 dollars towards rebuilding the Hospital. But the revolutionary war prevented the completion of the edifice. The annuity of \$2,000, granted by the Provincial Legislature, ceased upon the commencement of hostilities between Great-Britain and the colonies. The Legislature of the State, however, on the 1st March, 1788, granted to the Hospital the annual sum of \$2,000 for four years, to be paid out of the excise moneys to be collected in the city of New-York. And also by an act of the 11th April, 1792, made another appropriation to the Hospital of \$5,000 a year, for five years, payable also out of the excise in the city of New-York. On the 31st March, 1795, the Legislature repealed the act of the eleventh of April, 1792, as to future payments, and granted to the Hospital 10,000 dollars annually for five years, payable out of the auction duties in the city of New-York. And on the eleventh of April, 1796, the Legislature granted to the Hospital an additional sum of \$2,500 a year, for four years, payable out of the same fund. On the 12th March, 1801, the Legislature made another grant to the Hospital of the annual sum of \$12,500, to be paid for five years from the 1st February, 1800, which grant was afterwards, by a law passed the 14th March, 1806, directed to be continued until the year 1857. This grant was also payable out of the auction duties in the city of New-York. These are all the appropriations which have been made, either by the Colonial Legislature, or the State, to the New-York Hospital, exclusive of those for its lunatic department, except what may have been realized by the Hospital, under the act of the 1st April, 1796, directing the harbor-master of the port of New-York, to pay certain fines mentioned therein, to the Hospital. Under the fostering influence of the State, aided by the sums received from such of the patients as were able to pay for their board and maintenance, the Hospital has long been, and is now in a flourishing condition. The receipts for several years have exceeded the expenditures, and the excess appears to be increasing. In 1828, the

balance at the end of the year in the treasury, after paying all expenses, was \$23,532. And the excess of income for that year, over and above disbursements, was \$5,134.43. At the end of the year 1829, the balance in the treasury was \$21,902.65, after deducting the sum of \$9,457.92, paid for an addition and repairs made to the building during that year. The funds of the Hospital have been in general judiciously and economically managed, and the whole government of the Institution has been such as to advance the great interests of public charity, for which noble object it was established. The Hospital is under the immediate superintendence of a visiting and an inspecting committee. The former visits the Hospital twice, and the latter once a week. The president and vice-president of the board of Governors, also visit and inspect the house once a month. The accounts of the Hospital are audited every month by the visiting committee, and annually by an auditing committee. The Governors meet once in every month, at which time they receive the reports of all the committees. The Institution is under the management of twenty-six Governors, gentlemen of high standing and reputation, all of whom render their services without compensation.

To them great credit is due for their judicious management of the establishment, and their disinterested exertions to advance its prosperity.

The Hospital is an institution of great public utility. It is founded upon the principles of the Christian religion, and of general benevolence. It extends its charities and benefits to the afflicted of all sects and nations, without regard to political, civil, or religious distinctions. By means of this humane institution, the misery of the poor is mitigated, and a comfortable maintenance, and skilful medical treatment, are afforded to the unfortunate and afflicted. It is one of the most splendid and useful of human charities. It has deserved and continues to deserve the most liberal patronage of the State.

An objection, however, has been seriously pressed upon the attention of the committee, to a regulation adopted in the management of the Hospital, which requires from every student of medicine the payment of \$10 a year, for the privilege of visiting and seeing the practice of the house. This, it is contended, operates with hardship upon country students. Whether the advantages resulting from this regulation outweighs the objection, the com-

mittee are not able to state, and they submit the objection without comment, to the consideration of the Legislature.

In relation to the lunatic department of the Hospital, the committee report, that the Governors, at an early day, there being no establishment for the reception and cure of lunatics in the State, appropriated apartments in the Hospital, for that description of patients. The building, however, not having been arranged in reference to that object, the accommodations proved to be altogether inconvenient and inadequate.

The Governors, to supply this deficiency, in 1806, applied to the Legislature for aid, to enable them to erect a distinct building for the exclusive accommodation of the insane. Upon this application, the Legislature, by an act passed the 14th March, 1806, before referred to, continued the annual appropriation of \$12,500, granted by the act of 12th March, 1801, until the year 1857. Upon the passage of this law, the Governors erected a separate edifice, near the Hospital, denominated the Lunatic Asylum, sufficient to accommodate 80 patients; which edifice was completed and opened for the reception of lunatics, on the 15th July, 1808. The whole expense of this building was 56,000 dollars. To assist the Governors in the discharge of the debts contracted in the building of the Asylum, the Legislature, by an act passed the 23d March, 1810, granted to the Hospital the sum of 3,500 dollars per annum, for ten years, payable quarterly, out of the auction duties in the city of New-York; but this act was repealed by the 5th section of the "Act respecting navigable communications between the great western and northern lakes, and the Atlantic Ocean," passed 15th April, 1827.

In 1815, in order to be able to purchase an adequate quantity of land near the city of New-York, and to erect suitable buildings thereon, with the view of adopting a course of moral treatment for the lunatic patients, similar to that pursued at the Retreat, near York, in England, the Governors applied to the Legislature for assistance.

Upon this application to enable the Governors to effect the proposed object; the Legislature, by an act passed the 17th April, 1816, granted to the Hospital, the yearly sum of 10,000 dollars, until the year 1857. Upon the passage of this law, the Governors purchased at Bloomingdale, six miles from New-York, 77 acres, 2 R. 34 P.

of land, at an expense of \$31,444.95, being at the rate of about \$403 an acre, and erected thereon a large and airy building of stone, three stories high, containing accommodations for 200 patients. Near this building, an additional one has since been built for the noisy patients. The main edifice was completed in 1821. The aggregate of the expense of the building, land, and improvements, including interest on the money loaned, up to 31st December, 1821, was \$196,110.41. This was exclusive of \$6,802.02, paid for furniture and other necessities for fitting up the establishment. To this sum must be added the expense of the additional building, since erected in 1829. From the report of the Bloomingdale Asylum for the year 1826, the expense of the buildings and improvements, up to the 1st January, 1827, were stated at \$160,880.42; cost of land, \$31,444.95; interest up to that date, \$67,681.82. Aggregate of the whole expense up to 1st January, 1827, \$260,007.19. In order to meet these expenses, the Governors of the New-York Hospital, upon the faith of the annuity from the State, borrowed from William Edgar, \$100,000, at six per cent per annum, payable on the first April, 1838; and from Herman Le Roy, \$37,000, at the same interest, payable on the 1st April, 1840. The annual interest upon these loans from Messrs. Edgar and Le Roy, being \$8,220.00, is paid out of the State annuity of \$10,000. And the balance of this State annuity, after paying this interest, is applied to increase the sinking fund, established to pay off these loans.

This sinking fund now amounts to \$23,161.66; consisting of 229 shares of Bank of America stock, \$21,742.71, and 4 certificates of Ohio canal stock, 6 per cent, \$2,018.95. This fund is created, and its increase calculated upon, from two sources, to wit: Dividends on the stock, which, during the last year, amounted to \$1,245.30; and the surplus of the State annuity of \$10,000, over and above the amount required to pay the interest on the loans from Edgar and Le Roy. The income arising from the sums paid for the board of the patients, and from sales of the produce from the farm, is nearly, if not quite, equal to the general expenses of the establishment.

In the original plan of the building, it was intended to extend the main edifice, by adding two wings at the distance of 50 feet from the principal building, and to be connected with it by a colonnade. Each wing to be 194 feet in length, and 50 feet in depth. The main edifice, which is the only part completed, is 211 feet in length, and 50 feet in depth, and contains accommodations for about 200 patients.

It will be seen by the above statements, that the annuity of \$10,000, until 1857, has been already anticipated in the expense incurred in the erection of this establishment. Loans have been made to meet this expense; and this annuity is the principal fund upon which reliance is placed to discharge the interest upon these loans, and eventually to pay off the principal.

It must be apparent from this statement, that economy was not consulted in the erection of this establishment. Too large a quantity of land was purchased, for which a great price was paid. Too much attention was paid to mere ornament, which increased the expense, without adding to either the comfort or the cheerful appearance of the building. This ill judged extravagance can, however, now only be a matter of regret, as it is not susceptible of a remedy. The present Governors regret, equally with the committee, this unnecessary and improper expenditure of money upon objects of mere ornament, which cannot be considered such a disposition as carried into effect the intentions of those who made the liberal appropriation above mentioned.

The committee believe that a building possessing equal accommodations with the present, might have been erected at a much less expense; and by that means, a part of the bounty of the State would have been saved, to extend the benefits of the institution to a portion of the insane who are unable to bear the expense of a residence at such an establishment. The buildings were, however, erected, and the site and land purchased, upon the faith of the annuity from the State; and the then Governors of the Hospital were appointed by the State the almoners of its bounty. If the Legislature, then, had the power, the committee conceive that it would neither be expedient, nor in accordance with good faith, to withhold the payment of the annuity of \$10,000 from the Hospital, or to appropriate it in a different manner to a similar object.

Since the erection of the Bloomingdale Asylum, many improvements have been introduced into hospitals for the insane; the most prominent of which is the arrangement of the building in reference to a classification of the patients according to the state of their minds. In this respect, this building, otherwise excellent, is radically defective. To remedy this defect in some degree, the separate building was erected in 1829.

There were, on the 24th of September, 1830, ninety-three patients in the Asylum.

This Asylum is under the management of the Governors of the Hospital, from whose body a committee is appointed, called an asylum committee, who have the immediate charge of the Bloomingdale Asylum. Two of this committee are appointed a weekly committee, whose duty it is to visit the Asylum once a week; and at every such visit, to make a thorough examination of the same, see all the patients, and attend to the adoption of all proper means to promote their enjoyment and aid their recovery. There is appointed to the Asylum a physician, whose duty it is to visit the establishment once a week; and also a physician to reside in the building.

This establishment possesses all the advantages of cheerful prospect, and salubrious air. The grounds around it are laid out in walks and gardens. The patients have abundant opportunities for exercise, amusement and occupation, and the establishment itself is susceptible of great improvement, in carrying into more successful operation the valuable system of moral treatment which has been found so efficacious. To remedy the defects of the present building, will require considerable expense. But it is confidently expected, that the present worthy and philanthropic governors of the Hospital will, in this establishment, adopt and carry into successful practice all the improvements which have within the few past years been discovered in the arrangement of the building, and in the facilities of applying the means which humanity and science have already suggested and may hereafter suggest in the treatment of the insane. It is also desirable that the Governors would hereafter enforce the periodical publication of the cases treated at the Asylum, for the benefit of the medical profession generally, and in order to aid the researches of scientific men in the treatment of insanity, and to enable them to advance this art to a higher point of perfection than that to which it has hitherto arrived. The immense importance of such a publication to the interests of medical and mental science, must be apparent to every individual who gives the subject a moment's reflection. In making this publication, a disclosure of the names of the patients can be avoided, and thus the great interests of humanity and science may be promoted, without wounding the feelings of individuals. The committee have also every reason to expect that the Governors of the Hospital, prompted by their philanthropy and guided by their intelligence, will always, in their

appointment of medical attendants for the Asylum, select gentlemen who are recommended by their pre-eminent talents, and who possess all the various and rare qualifications necessary for the discharge of the difficult and responsible duty of such a station. The great importance of a judicious selection of the medical attendants, will appear in a subsequent part of this report, and in every standard work upon the treatment of insanity.

The foregoing remarks will suffice for that part of the duty imposed upon the committee, requiring them to inquire and report as to the propriety of making a different distribution of the funds granted to the Hospital by the State, and the remarks hereafter made, will exhibit the views entertained by the committee, in relation to the expediency of increasing such funds. As to the duty imposed upon the committee of digesting a system for the general and more economical distribution of the funds granted to the New-York Hospital, it will be seen by the foregoing observations that the separate edifice near the Hospital, for the accommodation of the insane, was erected in 1808, upon the faith of the continuance of the annual appropriation by the State of the sum of \$12,500, until 1857; and that without this appropriation, the Hospital could not sustain itself, or its means of dispensing its charities to the afflicted and diseased would be essentially curtailed to the lasting regret of every philanthropic citizen.

In the administration of the funds appropriated to the Hospital, no reasonable ground of complaint can exist. There may have been some errors or mistakes, but in the main, they have been judiciously, and the committee have not the least hesitation in saying, honestly administered. The annuity of \$12,500 is now appropriated exclusively to the support of the hospital department. The interests of humanity, as well as of science, demand that this establishment should be sustained. Besides being a dispenser of charity, it furnishes great and valuable advantages for medical instruction. The committee, therefore, cannot suggest any preferable or more economical mode for the distribution of this annuity, than the one now adopted. The annuity of \$10,000 to be continued until 1857, was intended to be and is appropriated exclusively to the use of the Bloomingdale Asylum. Upon the faith of the State in the grant of this annuity, and in its continuance until 1857, the Bloomingdale Asylum was erected. And however the committee, with others, may regret the want of economy in the erection of this establishment,

still they believe it would be a violation of the faith of the State and injurious to the interests of humanity, to withhold from the Hospital the payment of this annuity. As this last annuity has been anticipated, suggestions from the committee, as to a system for its more economical distribution, cannot be expected.

As to the expediency of requiring the physician of the Bloomingdale Asylum to be appointed by the Governor and Senate, the committee report, that however desirable such a mode of appointment might be thought by many, yet the committee entertain serious doubts as to the power of the Legislature to transfer the right of appointment from the Governors of the New-York Hospital to the Governor and Senate; as it might be contended that such an interference would be a violation of chartered privileges and vested rights, and therefore an infringement of the constitution of the United States.

In relation to the propriety or necessity of erecting new establishments for the insane, the proper site for such new erection, and a plan of the same, together with an estimate of the probable expense; into which matters the committee were directed to inquire, the committee report, that this branch of their duty gave them the greatest embarrassment; as it involved the examination of great and interesting questions, and opened a wide field of investigation, comprehending within its limits, the sciences of mental and medical philosophy; the superior advantages of public hospitals, in providing for the comfort and the cure of the insane; the comparative economy of such establishments, for the confinement and support of persons deprived of their reason; the inadequacy of the existing establishments to supply the wants of our insane; and the duty which resulted from this inadequacy, and devolved upon the State in its political capacity, of providing new hospitals for the reception of this most afflicted portion of our fellow citizens.

Of all the calamities of life, insanity is the most afflicting, and the most to be dreaded. It subverts every attribute of intellect, and obliterates every capability for enjoyment. Under its disastrous influence, man, a rational and accountable being, is degraded from the supremacy he enjoys, and becomes an object of pity and terror, whose confinement is necessary to his own, and the personal security of his fellow citizens. It not only saps the foundations of intellect, but it also perverts the moral qualities and the affections of its

victim. Upon its pestilential approach, love and friendship change into hatred, and every noble virtue, and every generous passion suddenly vanish, and are succeeded by the basest propensities of human nature. Thus, the pious blaspheme; the brave become cowards; the chaste become obscene; the gentle, turbulent; the most sacred obligations are violated; and the claims of kindred and friendship disregarded. The madman acts without motives; he is the victim of the wildest and most dangerous fancies; he either broods in sullen and dogged obstinacy over his strange illusions, or in maniacal fury, attempts his own, or the lives of others. Mental disease is confined to no age, or sex, or grade of intellect. In fact, the most refined minds, and hearts which are the seat of the warmest and holiest affections, are most exposed to its inroads. Some disappointment, or mortification, to the man of genius; or some great domestic affliction, storms the citadel of reason, and lays in ruins a brilliant and cultivated mind.

The deprivation of the only faculty which indicates our divine origin, being the severest dispensation of a just providence, no object can be conceived so worthy of all that labor, or genius, or philanthropy can achieve, as the restoration of this distinctive attribute of humanity to its original possessor. Mental derangement, in former times, was enveloped in mystery. In some ages of the world, it was, by the ignorant and superstitious, believed to be the result of a direct supernatural agency; and the incoherent words which fell from the lips of the insane, were regarded as oracular. And even at a very late period, mental madness was considered an incomprehensible and incurable malady, which set at defiance all the powers of medicine, and every effort of human skill. It was this opinion which led to the confinement and seclusion of the insane in remote prisons and dungeons, without any attempt at their recovery; which doomed them to a total abandonment and neglect by their nearest friends and relatives; and which caused a cruel mode of treatment to be introduced, the only object of which was, the security of the public. But happily for these miserable objects of compassion, science and humanity have at length exploded the erroneous opinion of the incurability of mental disorder, and have dispelled all that obscurity which once surrounded it. The discovery has been made that intellectual derangement, which every beholder regarded with alarm, and which was considered beyond the reach of all curative treatment, is a simple disease, and curable to a greater extent than any of the diseases of the body. Since this

discovery, humanity and science have been industrious in extending the improvements in the curative treatment of the insane, and in increasing the means and facilities of applying those moral and medical remedies which have been found efficacious in restoring the disordered mind to health and sanity.

As the causes which operate in disturbing the functions of the understanding are to be found in the mental and physical qualities of man, insanity must be coeval with his creation. The first notice we have of it as a disease, is during the æra of fable; when it is related that Melampus cured the daughters of Proteus by means of hellebore.

Mental disorder, in all ages of the world, has been regarded with awe and wonder; and the nature of the mind, and the morbid phenomena of intellectual derangement, at an early day became the subject of philosophical speculation. But the ancients, in their investigations, instead of analysing the operations of the mind in health, and endeavoring to discover the causes which disturbed those operations, wandered off in a profitless inquiry into the nature and seat of the intellectual principle. They inculcated the dogma that the mind was an immaterial principle, entirely independent of the body, and unaffected by its diseases. It was a consequence of this doctrine, that mental derangement was considered as beyond the power of medicine; and that in its curative treatment, attention was given only to the mental symptoms, and not to the phenomena of corporeal disease. Practising upon this system, the plan to be pursued, was to trace the particular aberration to its source, and then, by the aid of the science of reasoning alone, to attempt a cure. This theory prevailed as late as the 17th and 18th centuries, and even until very recently exercised a controlling influence.

The fallacy of this theory has been detected by the investigations of modern science. Bacon first declared, that "if the source of mental disorder was ever fully developed, it would be found to exist in corporeal changes, or the effects of external agents acting on the gross machine, and not primarily on the immaterial principle."

Since the days of Bacon, it has been clearly ascertained that every mental disorder arises through corporeal disorder, or that physical causes are always the proximate causes of mental derangement; that when insanity originates from moral causes, it is produced by means of morbid changes in the corporeal system, which are created by

such moral causes; and that from whatever predisponent cause insanity proceeds, if it be not primarily an organic affection of the brain, it ends in being so.* It has been found that the operations of the mind and body act reciprocally on each other; that the sympathy between the two is strong and perpetual; that the brain, being the organ of the understanding and the seat of the nervous power, is affected both by the translation of diseased actions, and by sympathy with diseased parts of the body, no matter how remotely situated. And where insanity is induced by sympathy, it has also been discovered that the application of medical remedies to the diseased organ, which by sympathotic action disturbs the functions of the mind, rarely fails to remove the mental disorder, provided such remedies are applied before the organic affection of the brain assumes a permanent character.

When these more correct views were entertained of insanity, its pathology became more perfectly understood, and its curative treatment more successful.

Since these important discoveries have been made, the examinations are first directed to the various indications of functional or structural disease; and the hallucinations of the mind, being the symptoms of the mental disorder, are deemed only of secondary importance in the treatment of insanity.

These discoveries in the science of treating insanity, have all been made within the last 35 years. Wherever they have controlled the treatment of mental disorder, their propitious effect has been seen and felt. This department of knowledge is, however, comparatively yet in its infancy. There are extensive regions yet unexplored; and we are called upon by all the considerations of duty and humanity, to give every possible encouragement to men of science to advance the noble art of treating insanity to still greater perfection. France has exhibited to us a noble example, in her liberal patronage of those who are willing to direct their investigations to this interesting science.

The multiplying cases of the deplorable malady of intellectual derangement; the great variety and increasing number of causes which produce it, should stimulate us to strain every nerve, and put forth every exertion in this cause. All the emotions of the mind,

* Barrow's Com. on Insanity, p. 578.

every passion in excess, may become a moral cause of insanity. Vices, and particularly those of civilization, increase these moral causes. Even the moral virtues, religion, politics, and all the best feelings of our nature, if too enthusiastically excited, become causes of intellectual disorder. Great political or civil revolutions, are exciting causes of insanity. All excesses, particularly intemperance, generate this disease of the mind. Hereditary predisposition is also one of its prominent causes. So numerous are the causes which induce this dreadful malady, and so obnoxious are we all to its inroads, that every countervailing remedy within the reach of human power, should be put in requisition, and under the direction of skill applied to rescue the mind from its dominion. But an escape from the awful state of incurable madness, depends almost entirely upon the prompt application of the appropriate remedies, in the earlier stages of the disorder. Neglect or improper treatment exasperates the disease, strengthens the illusions of the mind, and precipitates it into that hopeless state from which no power other than divine, can rescue the wretched victim.

The pre-eminence of the moderns over the ancients in the treatment of insanity, consists in their application to a greater extent of moral means. Great credit is due to Doct. Pinel for first systematically applying these means in the treatment of insanity. And the Society of Friends cannot receive too great commendation, for their benevolent exertions in behalf of the insane, and for their introduction of the law of kindness into the management of the retreat near York, England; an institution which will be an everlasting monument of the active philanthropy and munificence of this Society. The efficacy of the system denominated moral treatment, has been abundantly demonstrated; and it is now the established mode of treatment, and has been introduced into all well regulated hospitals for the insane. The principles upon which it is founded, are those of kindness and humanity. Insanity has been known to surrender up its hallucinations under a system of mild treatment and judicious management, when all other remedies had failed of success. The insane, except in a case of a total obliteration of the intellect, always retains some small portion of his reason, or some intellectual faculty unimpaired, upon which the skilful and humane physician can operate with great success. And in almost every case it has been found that they, even in some of the most hopeless stages of their disorder, are sensible of and grateful for kind and humane treat-

ment. Thus the discovery, most gratifying to humanity, has been made—that nothing can compete with the successful “influence of kindness, sympathy and affection, in soothing the ravings of the furious, in encouraging the hopes of the desponding, or in arousing the melancholic from his glooming musings.” This is the most effectual mode of dispelling the wild illusions which have seized and subjugated the mind; this, the most infallible prescription for quelling the raging passions of madness, and resuscitating an expiring intellect before the mental organs are destroyed.

It is by the skilful application of such means, combined with judicious medical treatment, that it is in our power to restore to society many rational minds, who otherwise would continue through life in the darkness of intellectual derangement, an object of inconsolable grief to friends, and a burden and terror to community.

This humane system has succeeded one in which whips, and chains, and dungeons were the only instruments of management. These goaded the maniac into phrenzy, exasperated his malady, and eventually plunged him into a state of incurable madness. Under the improved system of treatment, if the proper remedies are applied, and in proper season, it is believed that every case of mental disorder is curable, unless there be some structural defect, some mal-conformation of the cranium or the brain. In many establishments, and those not the best regulated, eight out of ten, and even six out of seven, recent cases have recovered. In Doct. Burrows' private Asylum, England, the proportion of recoveries in all the cases, both old and recent; including fatuity, idiocy and epilepsy, were 81 in 100; in the old cases, 35 in 100; in the recent cases, 91 in 100. (Burrows' Com. on Insanity, p. 531, 2.) Still this great success in the treatment of insanity falls far short of what is attainable. When a liberal encouragement shall be bestowed upon investigations in this department of science, and the spirit that has already been awakened in behalf of the insane, is sufficiently fostered, it will, aided by the strong stimulant of benevolence, accomplish all that humanity can desire for the comfort or the recovery of the insane. Although an old case is not necessarily incurable, and the slight hope of a restoration to the possession of reason is sufficient to warrant the application of every necessary remedy; yet the great secret of success, in the treatment of insanity, is the placing the patient immediately or very soon after the access of the disease, under a process of curative treatment, and under circumstances the

most favourable to the success of such treatment ; for generally a curable case becomes incurable by neglect. Hence follows the indispensable importance of providing hospitals adequate to the accommodation of all the insane ; and the necessity of providing such accommodations gratuitously for those who are unable to bear the expense. The success of these humane establishments should be a sufficient incentive to governments and to individuals to multiply and enlarge them until accommodations shall be provided for every individual afflicted with mental derangement.

It has also been ascertained that it is indispensable to success in curing insanity, that the patient be removed from his home. If permitted to remain in the bosom of his own family, where he is surrounded by his relatives and friends, little hope can be entertained of his recovery. For there the causes which first excited his malady, or objects associated with them, are ever present to increase its violence ; and there, as the moral obliquities of his disease have generated feelings of aversion and hate towards those who were the objects of his affection, the very kindnesses and attentions he receives from them retard his recovery ; and there disobedience to his orders by those who were accustomed to yield obedience to his commands, rouses his passions and inflames his mental disturbance.

Thus under all these exasperating influences, resulting from a residence at home, the delusions of the maniac become fixed and unshaken, the morbid affection of his brain is stimulated to its greatest exacerbation, and he breaks out in acts of violence, and his restraint becomes necessary to the security of those around him. This very restraint, and by those whom he has been accustomed to command, soon gives the disease a permanent and incurable character, from which all recovery is hopeless. It has, therefore, become a maxim, that insanity is more effectually and certainly, if not alone cured, in places expressly prepared and adapted for the reception and treatment of the insane. The patient, if his recovery is looked for, must be removed from all the objects and scenes which originated, or which tend to aggravate his mental disorder. And at no place can the insane enjoy so much comfort as at a public or well regulated private hospital. There every want is attended to ; cleanliness of person, nutritious diet, and protection from cold. The patient can there be indulged in greater liberty than at any other place, without danger to himself or to others. And his disease is not there exasperated by cruel treatment or unnecessary restraint. Separated from every cause which excites his disorder, he with ease is

brought to conform to all the rules of discipline established in the asylum. And also while there, and which is no small recommendation, his friends and relatives are relieved from all anxiety on his account, they being assured that he enjoys at such establishment every comfort and convenience, without any unnecessary severity or confinement.

Although many private hospitals have been, and are now, humanely and successfully conducted ; yet it is evident that public hospitals for the insane, erected and supported by an association of individuals, or by the government, upon a liberal and extensive plan, possess numerous advantages over all others. It has been ascertained that a large and commodious establishment, endowed with ample funds, and located with reference to cheerful scenery, pure water, and salubrious air, affording opportunities for mechanical, agricultural, and horticultural employment, and facilities for exercise and amusement ; is necessary to the successful management and treatment of the insane. The expense requisite to erect, furnish and sustain such an establishment, exceeds the power of individuals. The combined exertions of many, or the means of the State, are alone adequate to accomplish this object. And public hospitals can be brought under a more severe and constant inspection and superintendence than private establishments ; an advantage, the importance of which melancholy experience has often demonstrated. It has been found that a vigilant and rigid inspection, with power to correct abuses, is necessary to the protection, comfort and proper treatment of the insane. It was the want of such an inspection which led to those shocking abuses and inhuman cruelties, practised upon the miserable victims of mental disorder in the private mad houses in England, which were brought to light by the investigations of the House of Commons, in 1806, and in 1815 and 1816. The development of these abuses and cruelties, produced one of the strongest sensations ever felt in England. It appeared by the disclosures made at the periods alluded to, that the keepers of the private mad-houses in that country, had rarely ever been medical practitioners. That any person, from the mere object of gain, without any reference to his qualifications or capacity, had been permitted to open houses for the reception of the insane. These men having no reputation at stake, were prompted by interest to prolong the duration of the disease, and to render it incurable, as their compensation depended upon the time the inmates of their establishments were detained in custody. And their interest seldom

failed to overbear the little integrity and humanity they possessed. An impression had also been produced, and probably through the busy and wicked instrumentality of *these* interested keepers, that insanity brought with it reproach and disgrace upon the family of its victim. As soon, therefore, as this terrific and ignominious malady displayed itself, its unfortunate subject was, with great secrecy, hurried by his friends and relatives, to one of these receptacles, as a place of confinement and concealment; and was there abandoned to the exclusive management of some heartless hireling, whose interest was to render the disease permanent, and which result he scarcely ever failed to produce, by shameful neglect and merciless cruelty. This was not all—For the mystery and secrecy which surrounded these private mad-houses, and which excluded all visitation and inspection, furnished facilities for the gratification of the passions of avarice and revenge. Many a case had occurred, where men perfectly sane had been immured in these living tombs, by interested relatives, in order to obtain the possession of their estates, or by implacable enemies, to glut the cravings of some base and malignant passion. Under the protection of concealment and seclusion, and of the dread these receptacles of misery inspired, every degree of neglect and cruelty was practised with impunity upon their inmates. For years, tragic scenes of horror were acted over, in their dark and hidden recesses, known only to the wretched sufferers themselves, and to their barbarous keepers. Many a curable case was there rendered incurable. Many an exalted mind and noble spirit, was there ruined and extinguished. And within the gloomy walls of these dreaded dwellings, many a poor wretch, unpitied, and unseen by any eye from without, was precipitated into eternity, by the barbarities of neglect, or by positive cruelty and violence.

To render the recurrence of such enormities impossible, it becomes our duty to establish a system of the most constant and severe inspection, which shall reach every public and private establishment for the insane; an inspection, clothed with a power to supervise the whole interior management, and to inquire into, and correct every abuse.

It is clear, that public hospitals furnish the greatest facilities for establishing, and carrying into effect, such a system of inspection. In public hospitals also, judicious regulations can be better enforced for recording and preserving a history of the cases of the patients; with the view of enabling scientific men to extend their researches

in this department of science, and from authentic facts, thus collected, to deduce some general principles, for the management and treatment of mental disease. The visits of friends, in a public hospital, can likewise be most effectually restricted. And by means of its ample funds, the most competent and skilful superintendent and keepers may be obtained. In this particular, neither expense nor pains should be spared, as the success of every establishment for the insane, depends upon the skill, humanity, mildness, attention, equanimity, and courage of the attendants, as well as upon a sufficient number of them, in order to avoid all coercion or confinement, unless it becomes indispensable, from the violence of the patient.

When the insane were considered incurable, and hospitals for their reception were only regarded as places of confinement for the protection of the public, a sufficient number of attendants to prevent unnecessary coercion, and their fitness for the station, was not deemed important. But now, as higher and more humane views are entertained, and as the recovery of the insane is the noble object which has called forth the animated exertions of the philanthropy of the age, the greatest attention is paid to the qualifications and number of the attendants. A public hospital is also, of all other establishments of the kind, best adapted to the introduction of an enlightened system of police, in the management of lunatics. Separated from every cause which stimulates and aggravates their disorder, they are, without much difficulty, induced to conform to all the rules of discipline established in the hospital. And as the law of government is the law of kindness, upon receiving constant proofs of the parental regard and tenderness of the superintendent, by the aid of the little remaining reason which they possess, they soon begin to entertain for him feelings of respect and esteem. He skilfully taking advantage of these feelings, easily wins their confidence. And patients who entered the Hospital violent maniacs, by the influence which he thus acquires over them, soon become docile, quiet and harmless. And if any restraint should become necessary, they are given to understand that it is resorted to as a remedy for their mental disease, and not as a punishment.* It is thus, by gentle means and kind attentions, that the violence of this disorder is subdued, and the mind is gradually induced to discard its illusions, and to resume its sound and healthful action.

* This is the plan adopted by Dr Todd at the Connecticut Retreat.

The arrangement of the building, with reference to the seclusion and classification of the patients, which is the greatest adjuvant to successful treatment ; the provision of all the conveniences for the comfort of the patients ; the preparation of spacious yards for their exercise and amusement ; the erection of workshops, and the purchase and preparation of grounds for their occupation and employment ; and the imposing appearance of the building itself, which is necessary to produce impressions upon the minds of its inmates, combining a belief of comfort with a feeling of grandeur ; all together cannot be accomplished by individual means, but require the combined effort of many.

Public hospitals, upon an extensive plan, also possess the advantage of suddenly, when necessity requires it, exhibiting a great show of power, in subduing the violence of the patients. This advantage is of great importance in the treatment of furious maniacs. They are generally cowards, and yield to superior power. And as frequently one of their delusions is a belief in their supreme power, either divine or human, a conviction of their dependence and weakness breaks the catenation of morbid ideas, and has a tendency to dispel the morbid delusion.

In fine, nothing can equal the advantages of an extensive establishment, where humanity, science and skill are putting forth their united exertions to procure the comfort and effect the cure of the insane. It is here that the system of moral treatment can be most successfully and efficaciously adopted. It is here, by occupation, exercise and amusement, and all the numerous devices of ingenuity, stimulated to exertion by enlightened humanity, that the attention of the insane is most easily diverted from his delusions, and the morbid train of his ideas most frequently interrupted. It is in such an establishment that his hallucinations may be most rapidly dispelled, and new ideas, new impressions, and new feelings created. It is here that, by exciting fresh moral emotions, the creations of a diseased imagination may be banished, and an expiring intellect revived.

But no hospital for the insane, whether public or private, can be eminently successful in the cure of the insane, without a competent medical attendant. Upon this selection, more than upon any other circumstance, depends the success of the curative treatment of the insane. The physician selected should be a man of the highest order of intellect, of extensive learning, of great skill and sagacity, of distinguished moral virtue, and one who possesses a peculiar tact

and address in the treatment of this disorder. To induce a medical gentleman of such rare endowments to assume the charge of a hospital, and to devote his whole time and attention to its inmates, will require the ample funds of a public and well endowed establishment. And in all probability, a judicious and proper selection will more generally be made by a public hospital, than by any private establishment.

The physician upon whom devolves the responsibility of restoring the inmates of a hospital to the possession of their reason, should be master of the healing art, and of the sciences of physiology and pathology. He should have a profound knowledge of pharmaceutic preparations, and of the character and causes of corporeal disease. He should have devoted many an hour to the study of mental philosophy ; and should be familiar with the operations of the mind, and the causes which disturb these operations, and result in the injury of its functions. He should be profoundly acquainted with the laws of both mind and body ; and should possess the skill and sagacity to discover whether the mental disturbance of his patient arises from a moral or a physical cause ; whether it is primary in its character, or symptomatic, happening concurrently with some other disease, or is produced by sympathy with the disease of some remote corporeal organ ; and if the derangement is caused by a disease of some remote parts, shifting morbid actions to the brain, in what particular manner the insanity is so induced. All this knowledge is necessary, before he can with safety, and any hopes of success, prescribe medical or even moral remedies for the mental disease. The physician should also be able to ascertain the peculiar mental delusions of his patient, and the causes which induced them, and their connexion with his temper, constitution, age, and other diseases. He should be able to detect this subtle disease under every new form which it may assume, and to trace it through all its mazes to its hidden and original cause. He must not disdain to cultivate an acquaintance with all the errors and delusions of ignorance and credulity, as this knowledge will enable him to counteract and dispel them. In addition to those qualifications, the physician must possess a peculiar tact and address in the management of persons deprived of reason. He must be able to win their confidence, to soothe the furious into calmness, and revive the hopes of the melancholic ; and when reason first begins to dawn upon his patient, he must possess the power of assisting the struggles of his resuscitating mind, and, with skill and address, by reasoning to remove its fading illusions.

To be competent to the discharge of this difficult and various duty, the physician must have a profound knowledge of human nature and of human passions. He must have studied men, by observation, and by reading the lives of those who have been distinguished for some master passion, such as the love of glory, enthusiasm for letters, the fine arts, or any other great feature of character which has called forth the applause of the world. And to these intellectual qualities, the physician must add many moral qualities; such as a lofty philanthropy, spotless integrity, amiability and great benevolence of heart, ardent zeal, untiring perseverance, mildness of manner united with great firmness, unshrinking courage, and unruffled equanimity. He must appreciate the value of consolatory language and kind treatment, and even the advantages of an imposing person and commanding voice are not to be disregarded.

Dr. Pinel says, of the celebrated Willis, "That his usual expression of countenance was sweetness and affability, but when for the first time he looked a maniac in the face, he appeared instantly to change his character; his features presented a new aspect, such as commanded the respect and attention even of lunatics. His looks appeared to penetrate into their hearts, and to read their thoughts. It was thus that he obtained an authority over his patients which afterwards co-operating with other means, contributed to restore them to themselves and their friends."

Thus it is seen what a combination of rare and uncommon qualities is required in a physician to qualify him for the management and treatment of lunatics. An individual thus qualified, if he can be found, can only be induced to undertake the arduous duty of physician to a hospital for the insane, by an adequate compensation; and it is generally only within the means of an extensive establishment to obtain the services of such men.

Another advantage which results from the erection of public hospitals, and the employment of the superintendent and physician at a stated salary, may be alluded to, which is, that all temptations in such establishments to prolong the continuance of the disease, and to render the case incurable, are taken away; which, disgraceful as it is to human nature, have sometimes overborne the integrity of those whose compensation depended upon the number of the patients, and the time of their detention in custody.

The committee have thus endeavored to detail some of the advantages of public hospitals for the insane, and to enforce the importance of putting in requisition the talents and exertions of the most accomplished and able of the medical profession, in the curative treatment of the diseases of the mind.

The committee have also endeavored to enforce the indispensable necessity of removing the patient from his home, and the importance of preparing places for his reception, arranged and adapted to advance his comfort and promote his recovery. The committee have also endeavored to show, that individual benevolence is unable to sustain the expense of erecting establishments for the reception of the insane. And the result must be, that unless the efforts of many are united, or the government interposes, this most afflicted part of our race will be abandoned to total neglect, or to the horrors of empiricism ; either of which will doom them to perpetual mental darkness, without a solitary gleam of hope, to light up the awful gloom which enshrouds them.

The duty of the government, to provide for the comfort and cure of its insane citizens, is acknowledged in all civilized countries. The most powerful considerations of humanity address themselves to the State, to provide asylums for the gratuitous reception and treatment of those who are unable to bear the expense, and also for those who possess the ability of sustaining such expense, upon receiving from them a fair compensation for their support, and medical and moral treatment. The poor are a public charge. The State are bound to provide for their bodily wants ; and if afflicted with mental disorder, the obligation is equally great to administer to their intellectual wants. This class of our citizens are now suffering all the horrors of neglect. The pauper-lunatic has no friend or affectionate relative to administer to his disease ; to soothe the agonies of his troubled spirit, or to attend to his personal comfort, to his cleanliness, his diet, his clothing, and to protect him from unnecessary coercion, and cruel treatment. He is exposed to sale, and is struck off to the bidder who will maintain him for the least compensation, or he is detained in the poor-house of the county where he is a resident. No attempt whatever is made to effect his recovery ; the only object in view is the protection of the public from his violence. His personal comfort is disregarded. In many cases he expires from the mere neglect of his personal wants. If violent or noisy, he is restrained by chains, or confined in cells. He is the victim of

constant abuse, cruelty and neglect. Under such treatment, his disease, curable in its first stages, soon assumes a chronic and incurable character, and sets at defiance all the powers of human science and skill.

That such things should exist in a State so liberal and enlightened as ours, must excite mingled emotions of surprise and pain in every benevolent heart. The melancholy and afflicting neglect of the insane poor, is alone attributable to an ignorance of their deplorable condition on the part of our generous and humane population.

It would be a most distressing fact, and disparaging to the philanthropy of the age, if the victims of disordered intellect were not deemed legitimate objects of public charity, and if they were to be thrown as a perpetual burden upon society, consigned to pitiless neglect, and forever shut out from all hope of enjoyment on earth.

These, however, are not the views of this country, or of the civilized world. The insane, wherever the light of Christianity has penetrated, are acknowledged objects of public charity, and are now calling forth the most powerful and persevering exertions of the philanthropy of every country.

Most of the governments in Europe have made liberal provision for their insane. In this State, however, it would seem that much yet remained to be done in behalf of this deplorable portion of its population. According to the census of 1825, the population in the State of New-York amounted to 1,616,458. The number of lunatics at that time was 819, and of idiots 1421; total, 2240, or one in every 721 inhabitants. The population of the State now is 1,923,522; and the number of lunatics and idiots must in all probability have increased to 2,695.

To accommodate these 2,695 persons, we have but one incorporated Asylum, (at Bloomingdale,) containing provision for about 200 patients; and one private Asylum at Hudson, containing accommodations for 50 patients, established during the past summer by Doct. S. White. And these establishments are only for pay patients, and are inadequate to accommodate even those, whose relatives are able to sustain the expense of their maintenance and treatment at a public or private hospital. At neither of these institutions is there any provision for pauper lunatics.

There was a law passed on the 24th March, 1807, and now in force, by which the overseers of the poor of any city or town were authorised to contract with the Governors of the New-York Hospital, for the care and maintenance of pauper lunatics. And the Governors of that Hospital have, since the passage of that law, resolved to admit paupers into their Asylum at the moderate price of two dollars a week. But the admission of paupers into the Bloomingdale Asylum is entirely optional with, and not compulsory upon, the Governors of the Hospital; and but very few towns have, under the authority of this law, sent their pauper lunatics to this establishment. It must then be a conceded fact, that there exists no provision whatever in this State for the comfortable support and the proper treatment of the insane poor. They are abandoned to a total neglect, and deprived of all the proper means for their cure; except in a very few cases, where the town or city has voluntarily made some provision for their comfort, or sent them to some asylum with a view to their recovery.

Of the 819 lunatics in the State in 1825, only 263 were of sufficient ability to pay for their own support. The remaining 556, were insane paupers, either confined in jails, poor-houses, or private families, or roamed at large, a terror to others, and were supported either as paupers, or by charity.

In the year 1827, a law was passed, prohibiting the confinement of lunatic and idiot paupers, in prisons or houses of correction. But still, however, these wretched beings, almost entirely continue to be confined in county poor-houses, or private families. It appears by the report of the Secretary of State, made to the present Legislature, that during the year 1830, there were relieved, or supported as paupers, only in the county poor-houses of thirty-three counties, or in private families in such counties, 345 lunatics, and 361 idiots. This is exclusive of seventeen counties, from which no returns had been received.

Although the State has displayed its liberality to the Bloomingdale Asylum, and has made provision for the safe keeping of the insane, yet it is evident, that this falls far short of the necessities of the case. The whole system, as to pauper lunatics and idiots, is radically defective. It makes no provision for their recovery. It does not effect the best mode of confinement. It does not sufficiently guard the public from the consequences of furious madness. And it is the most expensive mode of providing for them. To con-

denn the confinement of lunatics in county poor-houses, it is only necessary to advert to the horrible disclosures of cruelty and misery, made during the investigations in England into the condition of lunatics, in the county poor-houses in that country.

The present Governor, in his annual message to the Legislature of 1830, called the attention of that body, to the deplorable condition of our insane poor, and to the propriety of erecting an asylum for their gratuitous care and recovery. And the appointment of the committee who make this report was the result of a strong appeal made by him in that message to the representatives of the people.

To correct the evils and disastrous consequences of the existing system, as to pauper lunatics; to discharge that highest of moral and religious duties, which devolves upon us as a government and as citizens, to relieve the wants of the poor and afflicted; to obey the authoritative mandate of the Ruler of the world; to imitate the example of other nations, whom we will not confess surpass us in either public spirit or benevolence, we should erect hospitals, adequate in number and extent, to accommodate all our insane; hospitals, provided with all the necessary means and facilities, for their safe keeping, personal comfort, and cure. Let these hospitals be enlarged or multiplied, as the malady increases, so as to accommodate, at least, all the insane poor, the burden of whose support falls directly upon the public.

If it were necessary to say any thing further, to induce this movement on the part of the State, it could be demonstrated that the mode here recommended of providing for the insane, would be much less expensive than the present system. This has been ascertained in England, where the system of pauper lunatic Asylums has been adopted. It would seem very probable, that the expense to the several towns and cities, if their pauper lunatics were maintained in large numbers, at some well regulated establishment, provided expressly for their reception, would be less than if they were distributed among private families, and the several county poor-houses. In the latter mode of providing for them, the number of attendants, and the expense of medical aid, must necessarily be greater, than in the mode recommended in this report.

But when we take into consideration, that by adopting the system of erecting public hospitals for the reception and cure of the

insane poor, the greatest portion of them, probably at least ninety out of one hundred, will recover, and forever thereafter cease to be a charge upon the public, all of whom would have remained through life such charge, had not the proposed system been adopted; we must be convinced that the erection of public hospitals for the insane poor, would be much less expensive than the present mode adopted for their safe keeping and maintenance.

In many of the European asylums, considerable expense is saved to the establishment, by applying to some useful purpose the labor of the quiet and docile part of the patients. It has been ascertained by experience, and it forms one of the essential principles of moral treatment, that occupation is one of the greatest adjuvants of recovery. Labor, which is the great law of health, is almost indispensable in the cure of the insane. This principle, in well regulated establishments, can with ease be made productive of profitable results. The females can be induced to sew, spin, weave, and attend to many household duties. The males may be employed upon the farm, in the garden or workshops. In the Armagh District Asylum, Ireland, the whole clothing for the establishment is made and kept in repair by the patients. In addition to this, much household labor is performed by the female patients, and considerable work done upon the farm by the males.

It may not be unprofitable here briefly to notice what has been done for the insane by our sister states, and by foreign nations.

Massachusetts, with a population of 610,100, more than two-thirds less than our population, and with only about 846 insane, 1,849 less than the number in our own state, and possessing an incorporated asylum, capable of accommodating nearly as many patients as the asylum at Bloomingdale, is exhibiting the laudable example of providing in an effectual manner, for the safe keeping and cure of her pauper lunatics. She has recently commenced the erection of a State establishment for this purpose, upon an extensive plan, at Worcester.

Kentucky has already made provision for her insane poor. In 1824, an asylum erected at Lexington, by the State, expressly for the cure of pauper lunatics, was completed, and opened for the reception of patients.

In Europe, much has been done for the insane. They were neglected longer in England than in many other countries on the continent of Europe.

In the year 1774, for the first time, in consequence of the disclosure of some cases of improper confinement and great cruelty, the subject was brought before Parliament; and an act was then passed, which required all the madhouses in England and Wales to be licensed; and they were, by the same act, made liable to a casual inspection; but no power was given by the act to correct abuses, and no provision was made for the protection of the insane poor. This wretched class of citizens continued in a state of deplorable misery and total neglect, confined either in the damp dungeons of public workhouses, houses of correction, or in prisons, until the year 1806, when, upon the motion of Mr. Wynne, Under Secretary of State for the Home Department, a select committee of the House of Commons was raised to investigate their condition. This inquiry resulted in the act now in force, which authorises the magistrates of the several counties in England and Wales to erect public asylums for their insane poor, under their own immediate inspection and government, and to charge the expenses attending the patients to the poor rates of the parish to which they respectively belong. Under this act, county asylums for pauper lunatics have been erected in 13 counties. The best constructed and the best regulated of these, are those erected for the West Riding of York at Wakefield, and for Lancaster. The former contains accommodations for 300 patients, and was built upon an approved plan, pursuant to the instructions of Samuel Tuke, a distinguished friend, whose exertions in behalf of the insane bespeak a most pure and enlightened philanthropy, and merit the gratitude of the civilized world. The excellent plan of this building may be regarded as a model, in imitation of which it would be advisable to construct similar establishments.

The two old hospitals for the insane, of Bethlem (established in 1684) and of St. Luke (established in 1751) in London, are destitute of the advantages of spacious grounds, and of workshops for the exercise and employment of the patients, and are radically defective in their structure.

In 1828 and 1829, acts were passed by the British Parliament, (9 Geo. 4, ch. 41, and 10 Geo. 4, ch. 18,) providing for the more effectual licensing of madhouses in England and Wales, and bestow-

ing upon the commissioners to inspect these establishments, more extended powers of visitation, and also powers to correct abuses.

In England there are a large number of private houses for the reception of the insane. These last mentioned acts were passed especially for their regulation, and to prevent the recurrence of those barbarities which were once practised in these establishments, and the disclosure of which led to the passage of Mr. Wynne's act. The laws of England in relation to the insane poor, are defective, in leaving it to the discretion of the county magistrates to erect asylums, instead of making this duty compulsory.

In Scotland, there is no asylum which can be called national. There is no law in force there, requiring the erection of district or county hospitals for the insane. At Edinburgh, the public asylum was built by voluntary subscriptions. Pauper lunatics in that city are kept in the cells of the charity workhouse, a building wanting in all the advantages of a lunatic establishment. The splendid asylum at Glasgow is an eleemosynary institution, although pauper patients are there received. There are lunatic asylums at Dundee, Montrose and Aberdeen, and also a small establishment at Dumfries.

In 1815 a bill was introduced into Parliament, by Mr. Colquhoun, and passed into a law, which placed both the public and private asylums in Scotland under the jurisdiction of the sheriffs of the counties, who by that act were authorised to correct all abuses, and to prescribe regulations for the government of these establishments, and by and with the advice of such physicians as they might call to their aid, to interfere even in the treatment of the patients, and to discharge such as appeared to be improperly confined.

Ireland exceeds all other parts of the British empire in carrying into effect just views in relation to the insane. She is indebted for this pre-eminence, to the zeal and perseverance of Thomas Spring Rice, whose memory will long be cherished by his grateful countrymen, for his benevolent exertions in behalf of the insane.

In 1808, Dean Swift's Hospital, in Dublin, was the only public establishment for the insane in all Ireland. In 1828 there were prepared for the reception of patients, the Richmond Lunatic Asylum, and the lunatic department in the House of Industry, in Dublin, four private asylums near the city, extensive public asylums at Cork, Limerick, Armagh, Londonderry and Belfast, besides five or six minor establishments in other parts of the kingdom. All these

asylums are conducted with great skill and regularity, and enjoy all the benefits of the best medical and moral treatment. The Lime-
rick District Asylum is said to be one of the best constructed build-
ings of the kind in Europe.

The laws in Ireland in relation to the regulation and erection of asylums are much more perfect than those applicable to England and Wales. By an act passed in 1817, as afterwards amended, the Lord Lieutenant of Ireland is invested with the power of directing the magistrates of any county or district to erect an asylum for the accommodation of their insane poor. The erection of the asylums was not, as in England, left to the discretion of the magistrates. By another act subsequently passed, the regulation and inspection of lunatic asylums in Ireland, was placed under the general superintendence of two individuals called Inspectors-General, who are required to make an annual report to Parliament of their condition. These Inspectors-General have the power to enter and investigate all public and private asylums, and to act the part of the most rigid inspectors.

In France and the Netherlands, and in almost all the continental states, the hospitals for the insane are under the control of an officer, called the minister of the interior, and form a branch of the civil hospital department, and are governed by one general code of laws. Each city and principal town has its own hospital. The insane poor are supported from the general funds of the hospital establishment. These funds are provided by the government. Each province has its own commissioners for general hospital purposes, and each city its local managers. In France, and the Netherlands, every public asylum is under the immediate charge of a respectable physician, appointed by the government, with a regular salary, payable out of the hospital funds. In no country in the world, has more attention been paid to the comfort of the insane than in the kingdom of the Netherlands. At Ghent there are four public hospitals for the insane, and one private establishment. Antwerp can boast of one of the best regulated asylums in the world. It was erected about twenty-eight years since, and contains accommodations for 230 patients. With this hospital is connected the celebrated establishment at Gheil, 27 English miles from Antwerp, where lunatics have been treated from a remote age, in consequence of a traditional superstition, which attributes the selection of this place to the circumstance of an "English lady of rank and surpassing beauty, who be-

ing driven to madness by the treachery of her lover, and the cruelty of friends, wandered from her home and country, and found refuge in this deserted spot ; where she recovered her reason, built a church, and devoted a long life to curing the insane, having, (according to the tradition,) received from Heaven, the power of performing such cures." Her remains are still supposed to possess that power, and are preserved by the villagers with great piety. In this village the insane recover rapidly. The convalescents from the Asylum at Antwerp, are sent here, and are treated in the same manner as the other patients at Gheil. More patients are said to be cured at this village, than at all the other hospitals in the kingdom. In Bavaria and Saxony, the government pay great attention to the insane. Prussia has long been distinguished for the excellence of her asylums for lunatics. Denmark and Sweden also provide in an ample manner for their insane. At both Madrid and Lisbon are large establishments for those who are deprived of their reason. In Saragossa, there is a well regulated extensive asylum, which is open to lunatics of all nations and religions, with the comprehensive inscription, of "*Urbis et Orbis*." Great credit is due to the court of directors of the East India company, for their provision for the insane in the states under their government. They have established six general hospitals for insane natives, under the Bengal government, and four under the presidency of Fort St. George.

There are also several flourishing lunatic asylums in Italy ; two at Milan, one public, the Senavra, and one private ; one at Aversa near Naples, and one at Genoa.

In France, the asylums of the Bicetre and La Salpetriere, are particularly distinguished for their good management and extensive accommodations. The French government continues to extend its protecting care to the insane, and to bestow the most liberal encouragement upon those men of science, who are directing their efforts to advance to greater perfection the moral and medical treatment of mental disease.

In the United States, likewise, several flourishing institutions for the insane have been established. In the year 1811 the Massachusetts General Hospital was incorporated. It received its principal contributions from the unexampled munificence of certain citizens of Boston and the neighboring towns. These contributions amounted to upwards of \$122,000. The State gave the hospital \$40,000. On the first day of Sept. 1821, this hospital was ready for

the reception of patients. It is one of the most perfect establishments of the kind in the world. The McClean Asylum at Charlestown, which is the lunatic department of the Hospital, deriving its name from one of its munificent donors, is situated upon one of the most beautiful spots in the vicinity of Boston, possessing all the advantages of salubrity of air and extent and variety of view. This asylum was first opened on the first of October, 1818, under the care and superintendence of Doct. Rufus Wyman, a gentleman of distinguished attainments, and eminently qualified for that station. In 1828 an addition was made to the building, which combined all the improvements previously adopted in other establishments, with much which originated with the ingenious physician.

The Connecticut Retreat for the insane, near Hartford, was opened on the 1st of April, 1824, under the medical superintendence of Doct. Eli Todd, a gentleman justly considered as one of the most distinguished medical men in his native state. This gentleman possesses a peculiar tact and address in the treatment of the insane, and he devotes himself to the promotion of their comfort and cure, with great zeal and enthusiasm. As appears from certain statistical notices of the lunatic asylums in the United States, by T. R. Beck, M. D., in 1829, (to be found in the Transactions of the Albany Institute, vol. 1, No. 3,) the Connecticut Retreat has been the most successful of any institution of the kind in the United States, and the most successful of any in the world, except Doct. Burrow's private Asylum in England.

Ever since the establishment of the Pennsylvania Hospital, in 1752, lunatics have been received therein as patients. In 1796, a part of the building was prepared for and appropriated to their reception.

The Friends Asylum for the relief of persons deprived of the use of their reason, at Frankford, near Philadelphia, is a flourishing and well conducted establishment; it has all the advantages of pure air, and pleasant scenery. It is confined to the society of Friends, and was founded in imitation of the celebrated Retreat, near York, England.

In addition to the above lunatic establishments, there is an insane hospital at Baltimore; and a new asylum recently erected at Columbia, South-Carolina; both of which are said to be well regulated and successful institutions. There is also an establishment at

Lexington, Kentucky, founded by the State, for the cure of insane paupers. This hospital was completed and opened for patients, in 1824.

It will be seen by this account of what has been done in other countries for the comfort and cure of the insane, that we have not advanced as far in this humane enterprise, as many of the governments of Europe. The time has arrived when we are called upon to discharge the uncanceled obligations of religious, moral, social, and political duty to that portion of our fellow-citizens, whose appeal to our sympathies, justice, and humanity, is the strongest which can under any circumstances be made by any part of our population. And it is believed that the disposition is not wanting, on the part of the people, to discharge this duty. They are only to be informed of the wants of their insane fellow-citizens, and the proper spirit and zeal will instantly be excited to provide all the means demanded by humanity for their relief.

The committee, relying upon the favorable feelings entertained by their fellow-citizens towards all objects of charity, have, for the reasons detailed in this report, come to the conclusion, that public establishments for the reception and cure of the insane poor, are both necessary and proper. And they therefore submit to the Legislature, the expediency of providing for the erection, of at least one spacious and commodious hospital, sufficient to accommodate, at least 350 of the insane poor. If an establishment of this extent should prove inadequate, its accommodations may hereafter be enlarged, or other hospitals erected of sufficient dimensions and number, to accommodate all the insane poor in the State. If commodious and well regulated hospitals were established, the number of the insane poor, would rapidly diminish, by means of the recoveries that would be effected. The part so recovering, would generally, cease to be a burden upon the public, and their discharge from the establishment would create vacancies for others, who in their turn, would enjoy the benefits of curative treatment.

As to the site of such establishment, if one should be erected, the committee believe that a central location on some navigable communication, should be selected; and that in the selection, regard should be had to purity of water, salubrity of air, and cheerful and attractive scenery. To the establishment should be attached a farm, of rich soil and easy of cultivation, to furnish occupation for the patients.

The building should have the appearance of a cheerful country residence, and all resemblance to a place of confinement should be avoided. As to the plan of the building, the committee refer the Legislature to the plan and description of the Pauper Lunatic Asylum at Wakefield, England, with Samuel Tuke's Practical Hints on the construction and economy of pauper lunatic asylums, published in 1819, by Watson and Prichett, architects ; and also to the plan of a French asylum, a description of which is submitted with this report.

These plans differ from each other in the shape and arrangement of the buildings, and also in the expense of their construction. The French plan exceeds the other in expense. The expense upon the plan of the Wakefield Asylum, of a building for the accommodation of 350 patients, being about \$88,500, and that of a building upon the French plan, for the same number of patients, being about \$99,000. An estimate of the expense of a building upon each of these plans, and also upon the plan of the Glasgow Asylum, made by Mr. Hooker, of Albany, an architect of reputation, is herewith submitted. It will be seen, by a reference to these plans, and to Tuke's Practical Hints upon the construction of Lunatic Asylums, that the great desideratum is, such an arrangement of the building as to be able to effect an entire separation of the sexes ; and also the seclusion and separation of the patients of either sex in proper numbers, and in distinct apartments, according to the state of their minds ; the separation to be according to the degree, rather than the species or duration of the disease, and not to exceed fifteen in number ; the violent and noisy to be separated from those who are quiet, and those who are capable of some degree of rational enjoyment, and also from each other.

The wards, galleries, day-rooms, and airing yards of the two sexes, and these different classes, should be totally distinct, and admit of no communication with each other ; and they should be so arranged as to render it impossible for the patients to have any view of each other from their respective apartments and yards.

The building should be so constructed as to produce a system of easy inspection and superintendence, over the patients, by their attendants, and over both by the superior officers. The accommodations for the patients should be cheerful, and afford as much opportunity for voluntary change of place, and variety of scene, as is

compatible with security. There should be rooms for the occasional seclusion of the noisy and violent patients, and means of easy transmission of the patients from one class to another, should be provided. The day-rooms should be so arranged as to present to the patient the strongest incentives to orderly conduct. And to facilitate inspection, the airing yards should be overlooked by the day-rooms, where the attendants generally are stationed, and the galleries should be contiguous to the day-rooms, and the sleeping rooms to the galleries.

To aid the inspection by the superintendent, the day rooms should not be above the second story. The day rooms, galleries and airing yards of each class should easily communicate with each other. They should have a cheerful appearance; iron grating to the windows should be abolished, and frames of cast-iron, having the appearance of wooden ones, substituted.

To give the galleries a cheerful appearance, the lodging rooms should be placed only on one side; and on the other side windows should be constructed looking into the courts, and should afford a prospect to the patient. The patient, as far as is practicable, should be the master of his own actions, and have the privilege of going into his airing yard at all proper times for exercise, recreation or amusement, without interference or control. And the building should be so constructed, that in his passage down he will continue constantly under the eye of his attendant. The building itself should have an imposing appearance, so as to excite in the bosom of its inmates a feeling of grandeur. This will prevent a sense of degradation and consequent depression of mind. And to the building should be attached work-shops and spacious grounds for the employment of the patients. The improved mode of moral treatment cannot be carried into effect without a proper arrangement of the building. And without such arrangement, it is impossible to prevent abuses, or to render comfort compatible with security.

Water should be carried to every story by forcing pumps, and each gallery should be furnished with wash-rooms, baths, &c.

The building should be warmed with heated air conducted to each story, by means of air flues, which in summer will answer the purposes of ventilation; and all the improvements lately discovered in culinary operations, and in washing and dyeing linen, &c. heating water, &c. should be introduced into the building.

A particular account of these valuable improvements in the science of domestic economy, will be found in a description of the Derbyshire General Infirmary, by Charles Sylvester, published in 1819. All or most of which have been successfully introduced into the Massachusetts General Hospital.

In all the older hospitals for the insane, and in many recently erected, the above mentioned, important arrangements of the building are wanting. The only object of their erection was the protection of the public. The recovery of their inmates was rarely attempted. The older hospitals, were generally cheerless and gloomy dwellings, calculated to aggravate the disease of the patient and to render it incurable. When these hospitals were erected, and for a long time afterwards, the insane were the victims both of neglect and brutal treatment. From an ignorance of the nature of their disorder, an opinion prevailed, that it was incurable. This opinion, connected with the dread which the disease inspired, caused the insane to be confined in cells, to be deprived of the consolations of friendship, and shut out from the blessings of pure air, healthful exercise, and kind treatment. Thus regarded, and treated like the brute, they wandered farther and farther from the light of reason; their delusions became more and more firmly fixed; every day, every hour they lived, some new neglect, some additional barbarity occurred to aggravate their disorder, until the limit was passed, beyond which, hope never penetrated, and they were doomed to the darkness of an extinguished, or irremediably disordered intellect.

But this gloomy picture is fast losing its horrors. The light of benevolence has shone upon it, and is rapidly expelling the awful darkness which has *reposed there* for ages. Science, stimulated by philanthropy, has conquered ignorance, prejudice, and superstition, and pushed its investigations into the causes, character, and curableness of mental disorder, and has come out with the glorious demonstration, that the diseases of the mind can be made to yield to the power of medicine, and to moral discipline. Thus the mystery which once enveloped intellectual derangement has vanished, and it has been ascertained to be a simple disease, curable to even a greater extent than the diseases of the body. The result has been, that the lamentable condition of the insane is now calling forth the warmest and most powerful exercise of the compassion of the age. And the sympathies of the civilized world, in their behalf, are growing stronger and stronger every hour, and the

New-York

Minutes of th

Vol. 1st, page 178.	Vol.	Vol. 2d, page 3-5.
From Jan. 31st, 1795, to Jan. 31st, 1796.	Jan Jan	From Jan. 31st, 1801, to Jan. 31st, 1802.
£2,473 17 2	£2,	\$6,287 83
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tion of
their behav-
stronger and stronger every hour, and the

er admitted at the Bloomingdale
cember, 1823.

1823.

Flour, 120 bbls ; Indian meal, 66 cwt	\$907 20
Rice, 671 lbs ; beans, 7 bush	55 48
Beef, 19,136 lbs ; pork, 682 lbs	1,184 09
Butter, 2700 lbs ; cheese, 60 lbs	486 38
Sugar, 3490 lbs ; tea and coffee, 513 lbs	578 57
Molasses, 281 galls ; beer, 1848 galls	293 21
Wine, brandy and gin, 30 galls	80 36
Cider and porter, 18 doz	29 67
Oil, 65 galls ; vinegar, 60 galls	57 25
Wood, 589 loads ; coal, 37 chal	1,246 72
Carpenter, mason and blacksmith work,	1,786 85
Paints, oil and painting,	423 83
Furniture, beds and bedding,	1,098 88
Wood, tin, hardware and crockery,	310 90
Freight and carting,	237 50
Clothing, \$271.81 ; carriage hire, \$64.39,...	336 20
Hay, 248 cwt ; straw, 1481 bunches,	352 63
Poultry, \$29.37 ; fruit, \$37.51,	64 88
Fish, \$103.76 ; crackers, \$33.81,	137 57
Stationary, \$308.05 ; soap, 41 hbls, \$64.88,...	372 93
Oats, shorts and corn, 900 bush	266 08
Potatoes, 80 bush, \$35.39 ; tobacco, \$32.37, ..	67 74
Salt, 54 bush, \$31.34 ; sand and yeast, \$35.25,	66 59
Waggon, cart, and a sleigh,	190 00
A horse and a cow, \$129 ; manure, \$60,	189 00
Medicine, \$81.93 ; physicians, \$701,	782 93
Superintendent and wife,	1,000 00
Nurses and servants,	2,586 00
Farmer, \$184.50 ; laborers, \$82.80,	267 30
Tiles, \$41.25 ; plants, \$64.02 ; flax, wool and ice, \$51.34,	156 61
Money not accounted for by the book-keeper,..	479 79

\$16,093 14

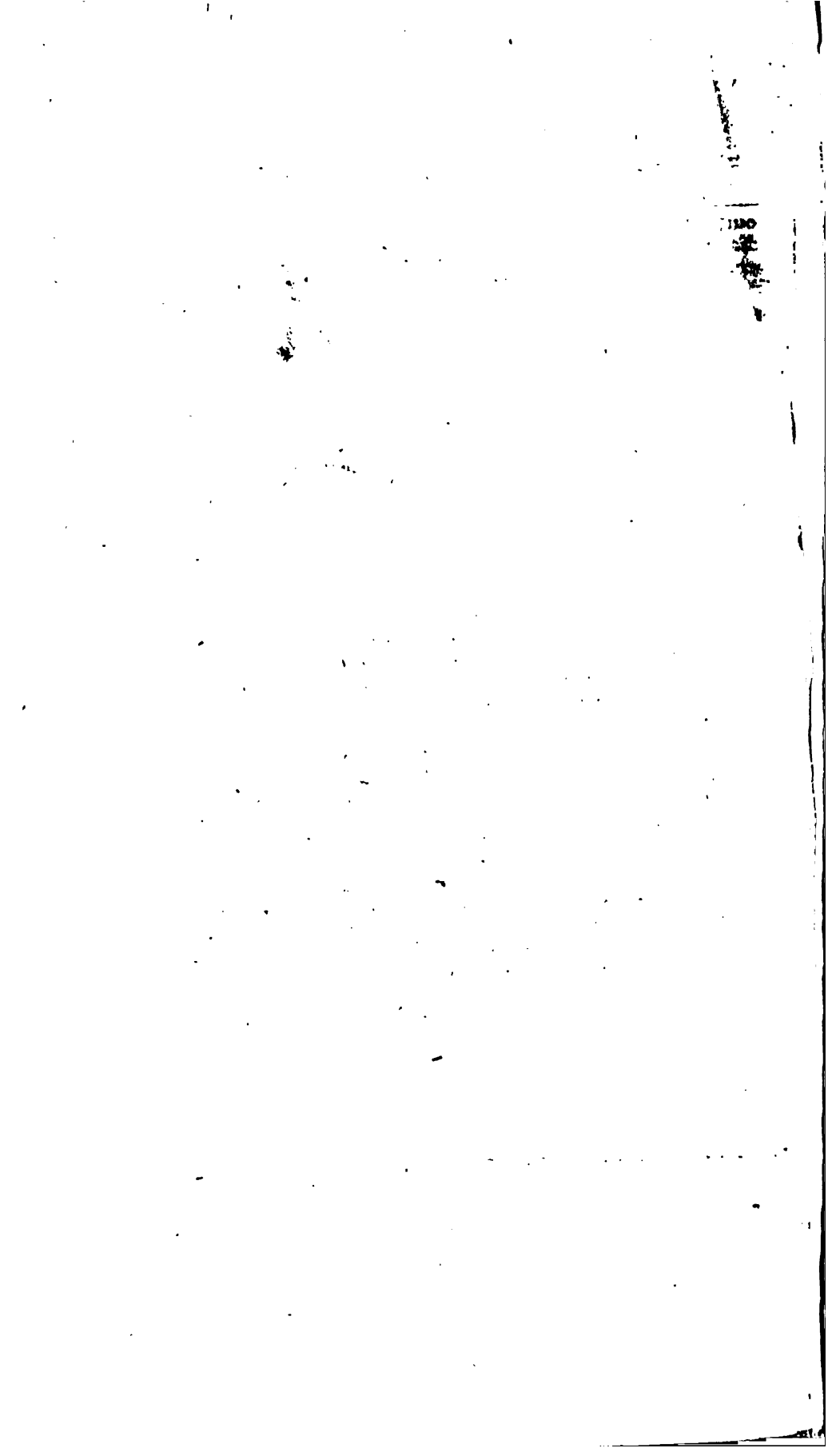
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1829.

49	00	Flour, 202 bbls	\$1,135 08
41	90	Indian meal, 31 cwt	52 68
73	64	Rice, 960 lbs; beans, 14 bush	47 99
568	85	Beef, 24,498 lbs; pork, 3261 lbs.....	1,640 49
705	48	Butter, 3799 lbs; cheese, 221 lbs	611 86
526	60	Sugar, 3471 lbs	322 12
310	33	Tea and coffee, 637 lbs	359 13
75	50	Molasses, 93 galls	30 69
361	18	Beer, 1955 galls	198 25
123	15	Wine, brandy and gin, 57 galls; }	
136	83	cider and porter, 15 doz .. }	140 82
582	25	Oil, 172 galls; candles, 35 lbs	136 83
75	42	Wood, 725 loads; coals, 59 ch & 15 tons,	1,960 80
192	38	Repairs, \$801.68; crockery, \$38.37, ..	840 05
121	74	Soap, 78 bbls soft, hard 352 lbs.....	96 76
743	41	Furniture, \$275.25; bedding, \$404.46,	679 71
132	39	Clothing, \$570.11; hardware, \$52.27,.	622 38



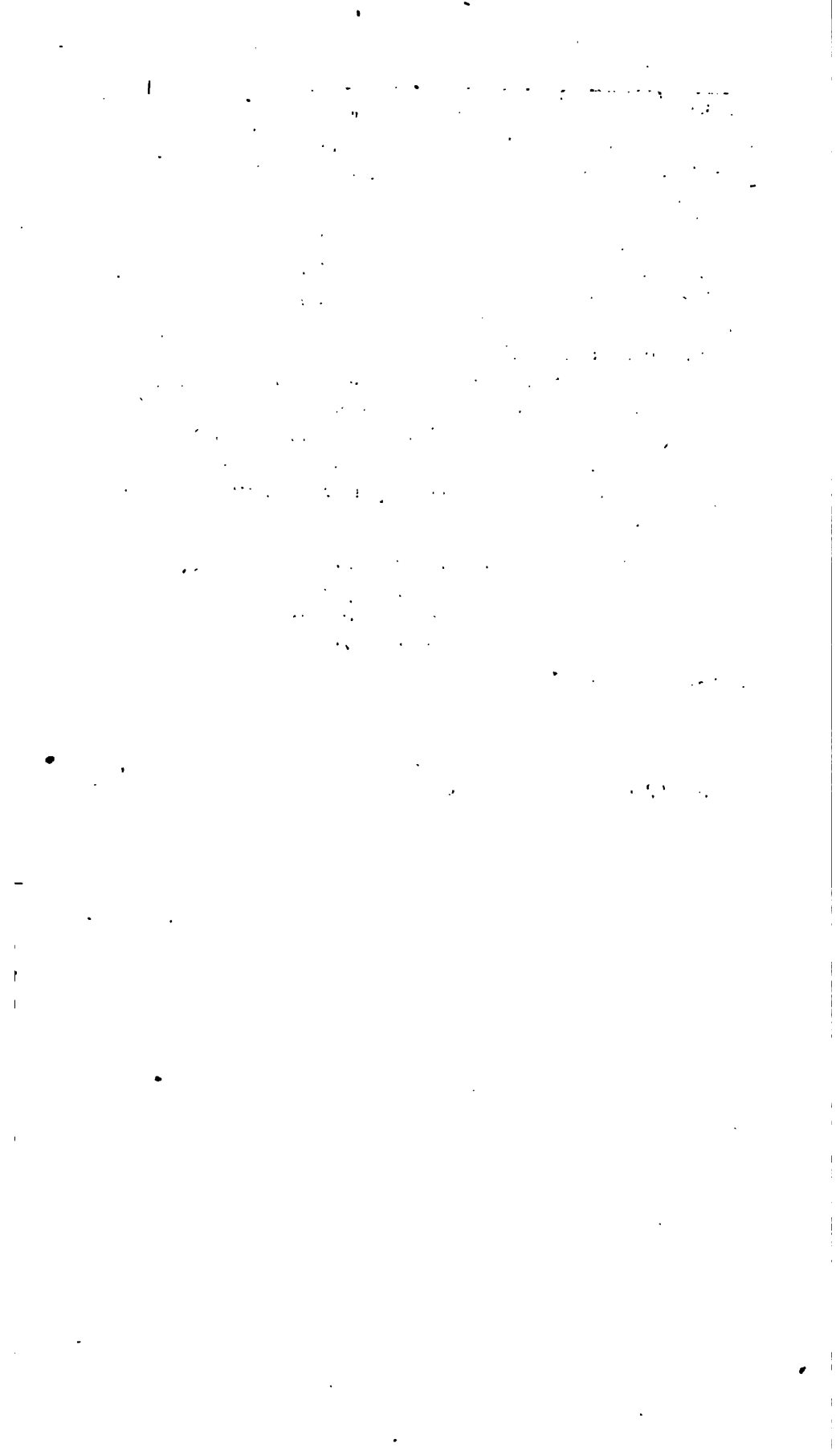
holy determination seems to have been formed to make amends, by the exertions of the present and the future, for the neglect and the cruelty of the past.

Much in this enterprise of justice and benevolence yet remains to be achieved. Humanity and science have still more victories to win, before all within the reach of human power, in the treatment of mental disease is accomplished. When the restoration to society of so many rational minds, who without the application of curative means, would be perpetually doomed to the horrors of madness, is the philanthropic object of the humane, it cannot be that indifference and apathy will paralyse their exertions, or that no correspondent feeling will be excited in the public mind, to second and co-operate with all the benevolent efforts which they may put forth in this righteous cause.

All which is respectfully submitted.

A. C. PAIGE,
ELI SAVAGE,
PETER GANSEVOORT.

Albany, 10th March, 1831.

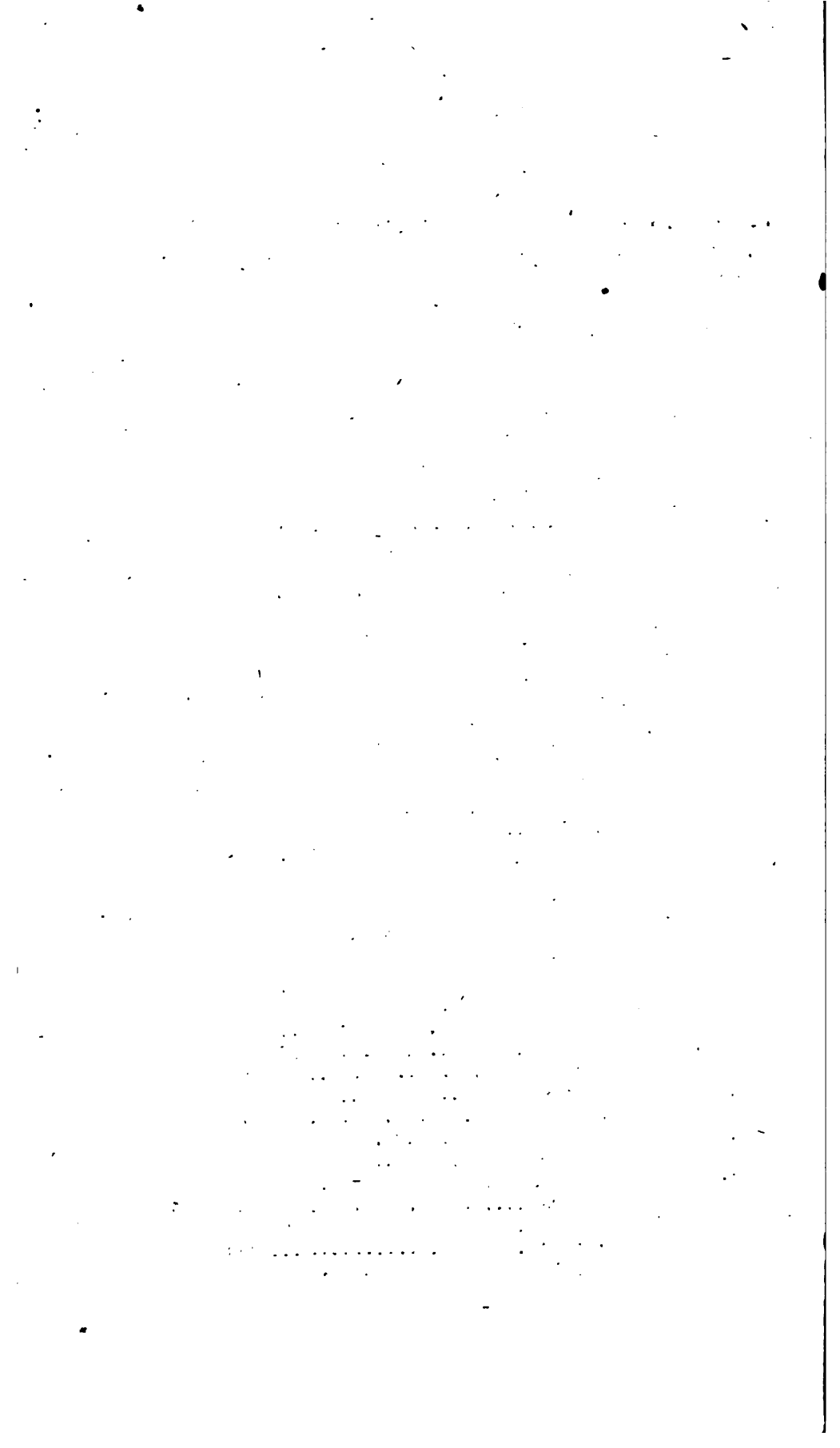


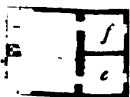
DOCUMENTS

Accompanying the Report of the Committee appointed to investigate the affairs of the New-York Hospital, &c.

Statement of the number of Patients in the New-York Hospital during the following years.

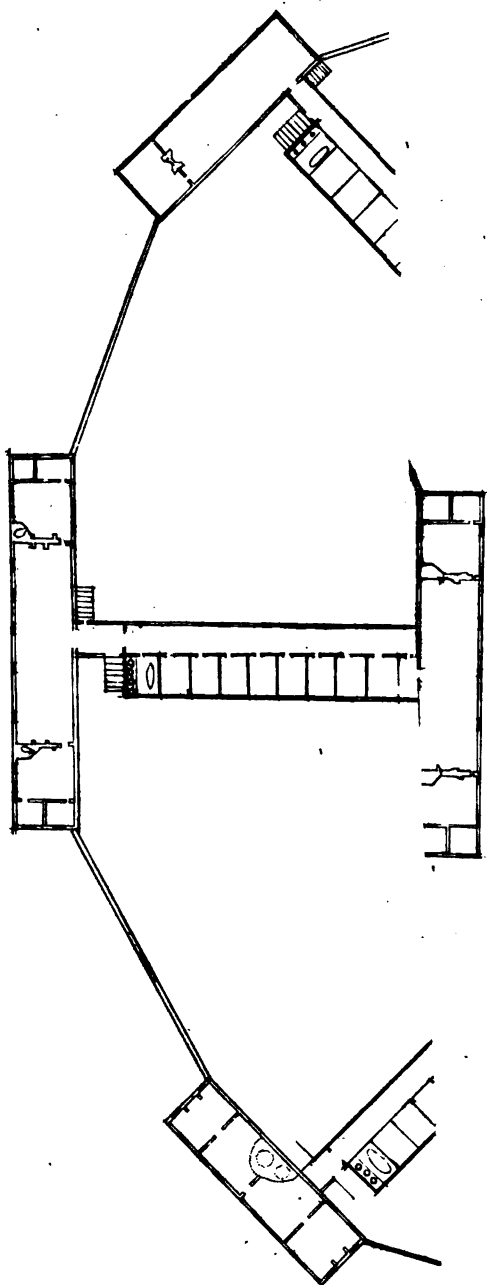
YEARS.	Remaining.	Admitted.	Total.
From February 1st, 1792, to February 1st, 1793,...	...	236	236
February 1st, 1793,	48		
From February 1st, 1793, to February 1st, 1794,...	...	560	608
February 1st, 1794,	58		
January 31st, 1794,	74		
From 31st January, 1794, to 31st January, 1795,...	...	409	483
January 31st, 1795,	52		
From January 31st, 1795, to January 31st, 1796,...	...	513	565
January 31st, 1796,	73		
From January 31st, 1796, to January 31st, 1797,...	...	510	583
January 31st, 1797,	106		
From January 31st, 1797, to January 31st, 1798,...	...	472	578
January 31st, 1798,	112		
From January 31st, 1798, to January 31st, 1799,...	...	503	615
January 31st, 1799,	115		
January 31st, 1801,	91		
From January 31st, 1801, to January 31st, 1802,...	...	983	1074
January 31st, 1802,	147		
From January 31st, 1802, to January 31st, 1803,...	...	956	1103
January 31st, 1803,	162		
From January 31st, 1803, to December 31st, 1803,...	...	870	1032
December 31st, 1803,	178		
From December 31st, 1803, to December 31st, 1804,...	...	1168	1346
December 31st, 1804,	187		
in 1805,	1126	1313
December 31st, 1805,	163		
in 1806,	1139	1302
December 31st, 1806,	208		
in 1807,	1011	1219
December 31st, 1807,	206		
in 1808,	1100	1306
December 31st, 1808,	250		
in 1809,	1067	1317
December 31st, 1809,	202		
in 1810,	1069	1271
December 31st, 1810,	210		

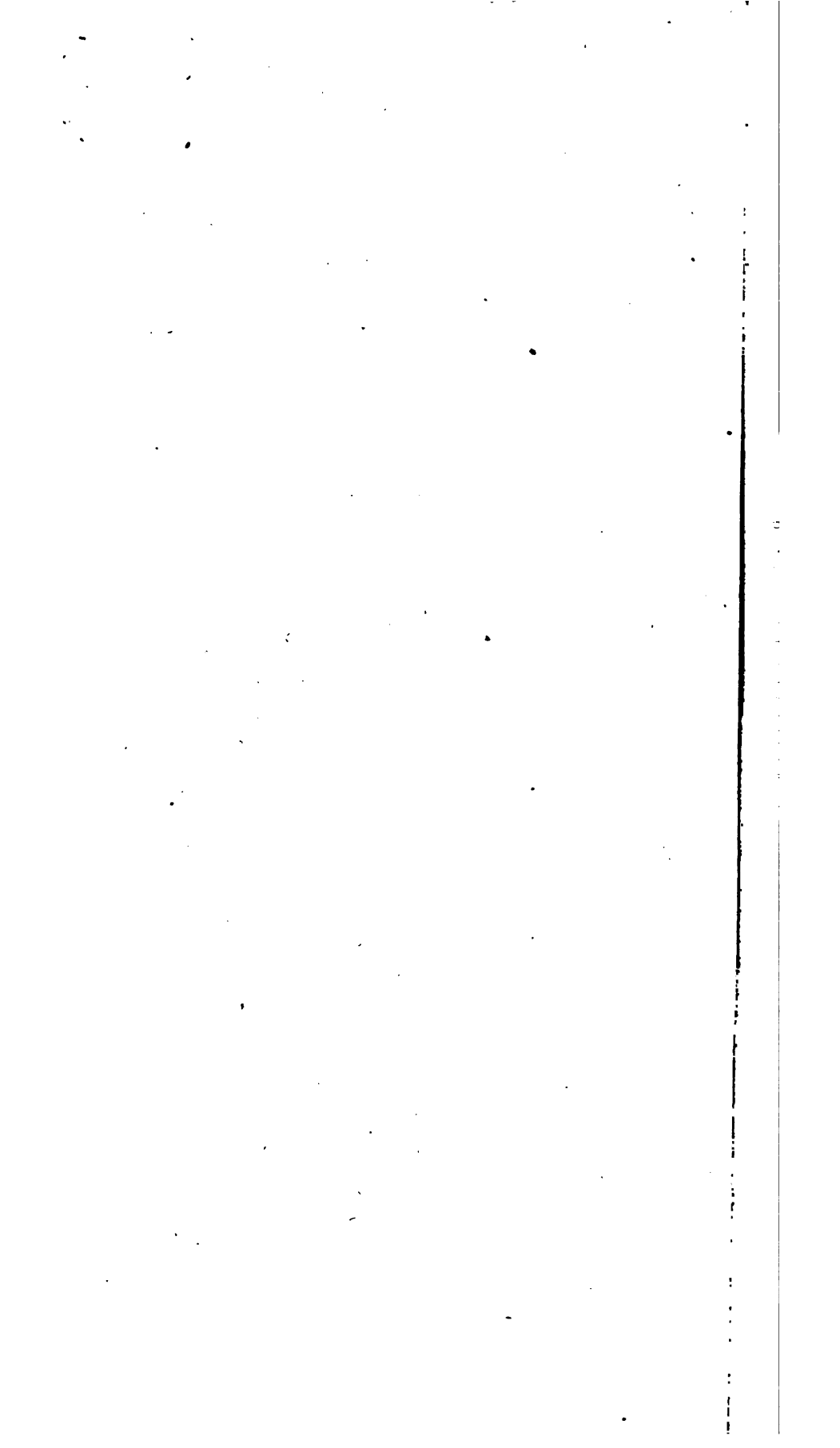


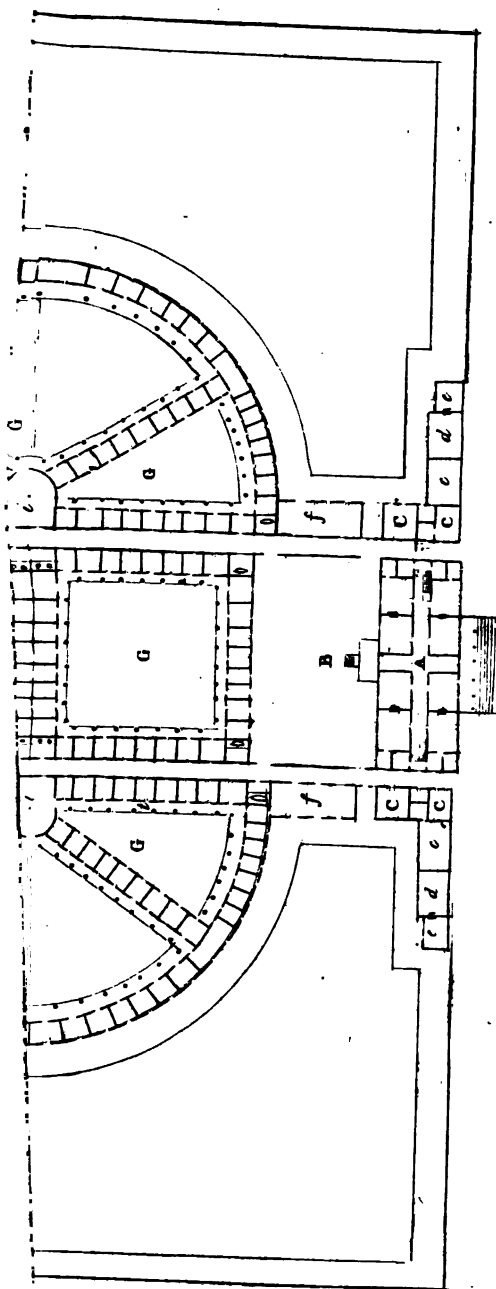




Glasgow Asylum







French Lunatic Asylum

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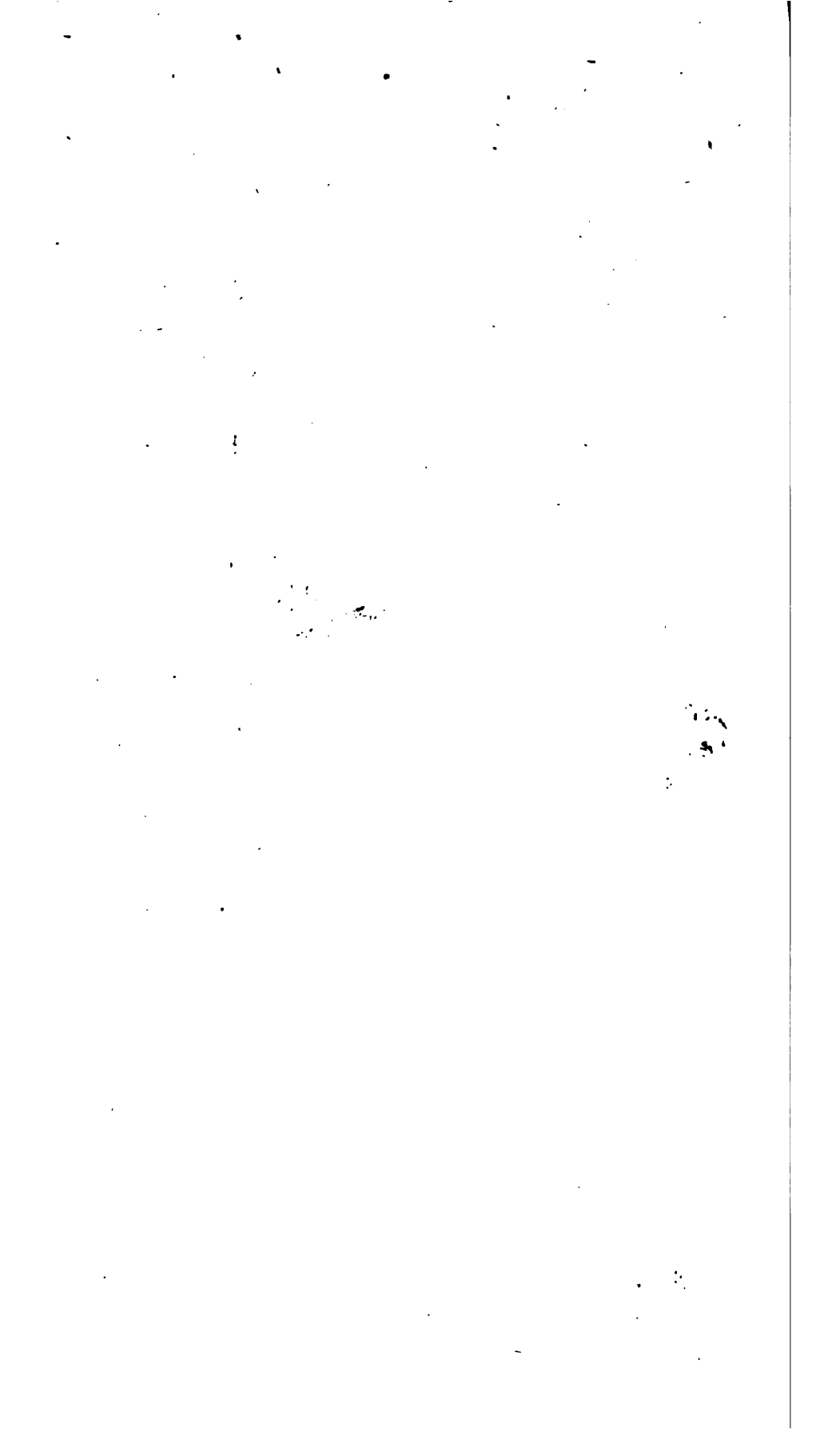
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PLANS,

And Estimates of Expense of erecting Lunatic Asylums.

References to the Plan of the French Asylum.

- A**, Centre building, 115 by 45 feet, a basement principal and attic story.
- B**, Court or garden, 115 by 66.
- C**, Apartments for those having charge of the patients.
- ff**, Infirmarys, 40 by 18 feet, one story high.
- dd**, Dissecting rooms.
- ee**, Dead rooms.
- G G**, Wards and cells, baths, water closets, &c. for the different classifications of male and female patients.
- H**, Chapel, situate in an area of 115 by 85 feet.
- h h**, Chambers for convalescents.
- i i**, Keepers' rooms, overlooking the several wards.
- F F**, Dining rooms, 60 by 20 feet.
- k k**, Kitchens, 25 by 20 feet.
- l l**, Sculleries.
- r r**, Pantries.
- m n o p**, Bakery, brewery, carriage and stable buildings, wood-house, &c.
- q q**, Refectories.
- s s**, Halls of union.
- t t**, Piazzas, paved walks.

The principal building to have a basement of stone, superstructure of brick, to be finished in a plain and substantial manner, inside and out.

The interior arrangement for the accommodation of the insane, is calculated to be built with brick, on stone foundation; one story high, the walls made flush inside and out, and whitewashed.

The surrounding wall of stone, 12 feet above the surface, coped with hewn stone, two feet average thickness, having projecting piers at suitable distances for strengthening it.

Suitable drains are to be laid, having sufficient descent, from the kitchens, baths, water closets, &c.

Proper furnaces, or boilers, are to be constructed to generate heat, or steam, to be conveyed in pipes, for heating the establishment, as occasion may require.

The nearest calculation we can make of the expense, allowing the wall to inclose 12 acres of ground, is from \$98,000 to \$100,000.

HOOKE & HIGHAM.

March 4th, 1831.

WAKEFIELD ASYLUM.

Principal building, a high basement, principal and attic story, finished plain and substantial. The walls of the basement, stone; superstructure, brick. The length is estimated at 125 feet, width 55 feet.

Two wings, each 300 feet in length, 24 feet in width, three moderate stories in height; constructed with brick, laid flush inside and out, and whitewashed. Stone foundation, or cellar walls; furnaces, stone, and wood rooms in the cellars; the windows to have iron sashes, placed above a man's height, towards the centre courts. Each cell to have a ventilator wrought in the walls, to receive the foul air, immediately below the ceiling; and each cell is to be heated, when necessary, by pipes passing through the same; the doors are to be made strong, but not *prison-like*; furniture, simple and commodious.

Two wings extended in a line with the principal building, will serve for dining rooms, kitchens, larders, sculleries, &c., over which may be infirmaries, or other apartments, being two stories in height, 86 feet in length, and 26 feet in width.

Other buildings will be required, such as bakery, brewery, stables, carriage-houses, sheds, &c. &c., which will be located as the form of the ground shall best suit; drains, baths, water closets, furnaces, boilers, and a variety of other appendages, which cannot all be comprehended in a brief sketch.

Supposing the surrounding wall to encompass eight acres of ground, the expense of this establishment is estimated, exclusive of ground, from eighty-seven to ninety thousand dollars.

HOOKE & HIGHAM.

March 4th, 1831.

GLASGOW ASYLUM FOR MANIACS,

Altered and Improved, having Six, instead of Four Wings.

This establishment consists of an Octagonal centre building, 90 feet diameter, three stories high, with a circular belvedere above the roof, 40 feet diameter, overlooking the enclosure, and surrounding country; having a basement story, partly under ground.

Connected, and extending from the centre building, six wings are projected, 183 feet in length, by 21 feet in width, and three stories in height. Each floor of each wing containing 17 cells, stairs, water closets, baths, &c., and spacious corridors.

At the extreme ends of the two centre wings, which form a right angle with the direct line of entrance to the principal front, are transverse wings, containing dining halls, kitchens, and bakeries; each wing 116 by 22 feet, one and a half stories high.

Connected at the extreme ends of the two front wings, are infirmaries, and rooms for nurses. These are 66 by 22 feet; the same height as the last mentioned.

And at the extreme ends of the two back wings, are similar buildings, for brewery, washing, stabling, &c. The surrounding wall to encompass an area of from eight to ten acres; having a well proportioned entrance, and porters' lodges; the surrounding grounds tastefully laid out, and planted with ornamental trees and flowering shrubs, gravelled walks, &c.

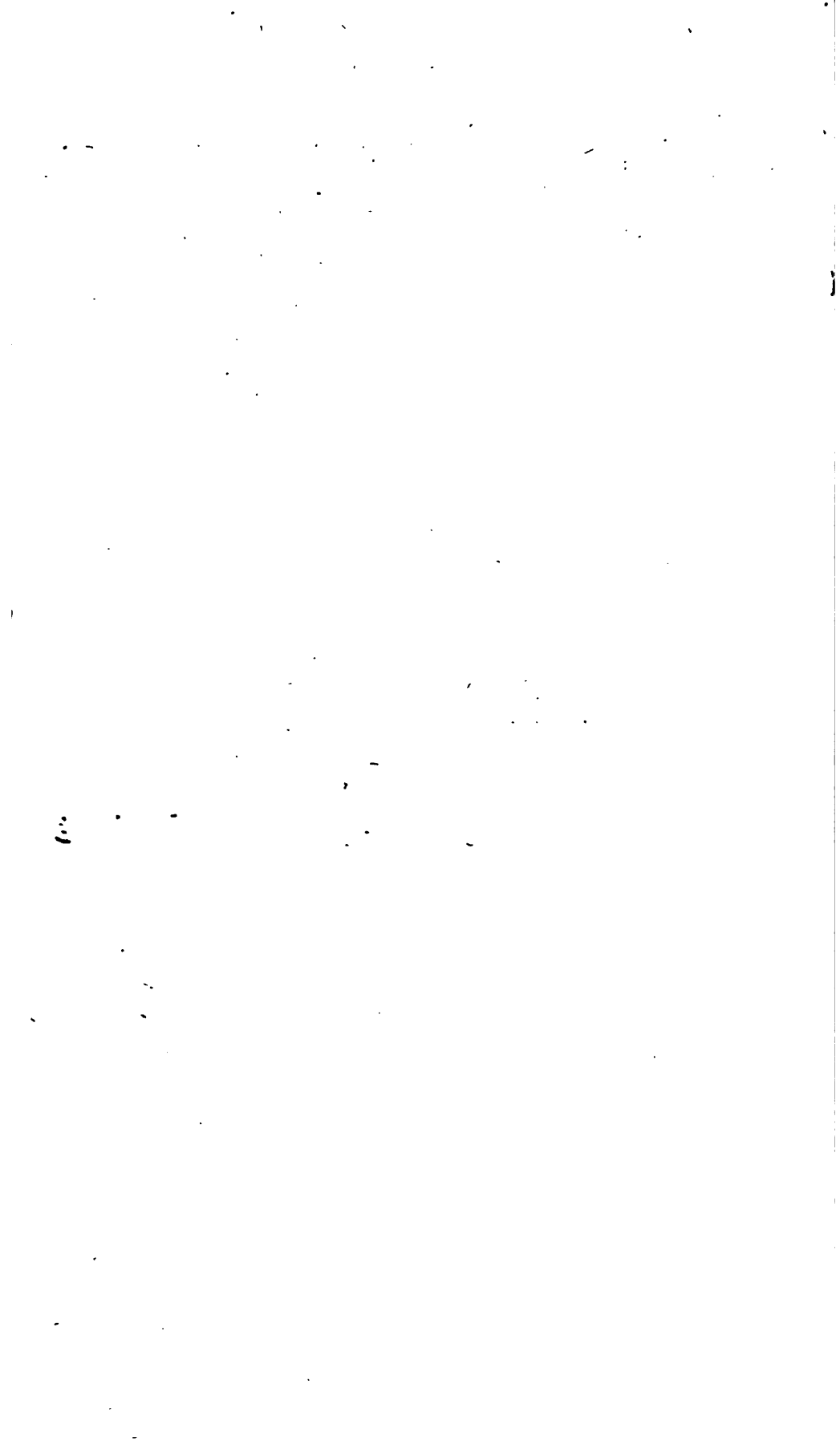
The expense of this establishment, may be at least estimated (including every appendage) at one hundred thousand dollars.

HOOKE & HIGHAM.

March 6th, 1831.

References to the Plan of the Wakefield Asylum.

- A, Centre building, 125 by 55 feet, containing a basement, principal, and attic story.
- B, Wing for males, 300 by 34 feet, containing three stories of cells, baths, and water closets.
- C, The same as B, for females, each containing 144 cells, 10 by 12 feet.
- D, Dining rooms, 50 by 24 feet.
- d, Closets two stories, infirmaries above.
- E, Kitchens. e, Larders. f, Sculleries.
- 1, 2, 3, 4, Baths, privies. 5, 6, 7, 8, Closets.



No. 264.

IN ASSEMBLY,

March 9, 1831.

REPORT

Of the Comptroller, relative to the amount of the expenses of the last sale of lands for taxes.

COMPTROLLER'S OFFICE, }
Albany, 9th March, 1831. }

The Hon. GEORGE R. DAVIS,
Speaker of the Assembly.

SIR,

Herewith I have the honor to transmit a report made in obedience to a resolution of the Honorable the Assembly of the 7th instant.

I am, with great respect,
Your obedient serv't.

SILAS WRIGHT, JR.

[A. No. 264.]



REPORT.

STATE OF NEW-YORK, }
Comptroller's Office. }

The Comptroller, in obedience to a resolution of the Honorable the Assembly of the 7th instant, requiring him "to report the amount of all the expenses of the last sale of lands for taxes, including the sums paid for advertising, publishing lists and statements, together with all the expenses of printing and transmitting the papers and documents to the various county treasurers, town clerks, supervisors, and other officers throughout the State,"

RESPECTFULLY REPORTS :

That the law regulating the giving notice to the public of a sale of lands for taxes, will be found in sections 53 to 61 inclusive, of title 3, chap. 13 of the first part of the Revised Statutes. A list of the lands charged with arrears of taxes, and liable to be sold, is to be made, and such a number of copies of this list is to be printed as will enable the Comptroller to furnish to the county treasurer of each county in the State, five copies for his office, and two copies for the town clerk of each town in his county. This list, for the last tax sale, was printed in pamphlet form, and consisted of 240 octavo pages. The number of copies printed was twenty-four hundred.

The distribution of these lists to the county treasurers is to be made either by sending special messengers with them, or by sending the lists by mail; but the expense of sending messengers is not to exceed the amount of postage which would be chargeable upon the pamphlets if sent by mail. The lists for the last sale were distributed wholly by special messengers, because it was found that distribution could be made much cheaper than by mail, and because the time was short within which the distribution was to be made, and this mode of doing it would ensure the correct delivery of the lists within the time required. The messengers employed were mostly clerks in the Comptroller's office, who were paid nothing for their services beyond their ordinary office wages, so that their expenses formed the only charge upon the tax sale. In only one instance

was any thing paid for wages to the messenger, and this was done because the Comptroller could not spare a sufficient number of clerks to perform the whole distribution within the time allowed by the notice. The postage upon each one of the lists sent by mail less than one hundred miles, would have been at least sixty cents, and more than one hundred miles, at least ninety cents; the rates of postage upon pamphlets of this description being four cents and six cents per sheet, according to the distance.

The distribution to the town clerks is to be made by the county treasurer, and not by the Comptroller; and the expense incurred by the county treasurer in doing this, is a county charge, and not a charge upon the State. The Comptroller has no means of ascertaining what this expense was to each county, though his impression is, that the distribution is usually made without any considerable charge to the county.

The Comptroller is also required to publish, once in each week, for at least seventeen weeks, in at least two newspapers in each Senate district, a general notice that the lists have been distributed, and that the sale will take place according to the notice accompanying the lists. This notice for the last sale was published in one newspaper in each county of the State, as it was believed advisable to spread the notice as broadly as possible, and especially as the time of giving the notice for that sale was no longer than the law required.

The sale was commenced on the fifth day of April, and closed on the fifth day of May, and an auctioneer was employed to make the sales at a stipulated per diem allowance of five dollars. The sale was progressed in as rapidly as possible, and for a considerable portion of the time full six hours of the day were occupied in selling.

In discharging these duties the following expenses were incurred, to wit:

For printing 2,400 copies of the lists of lands charged with arrears of taxes,	\$885 90
For services and expenses of special messengers to distribute these lists to the county treasurers of each county of the State,	346 35
For printing the general notice of tax sale in one newspaper in each county of the State, once in each week for seventeen weeks, (55 papers at \$5.40 each,)	297 00

Amount carried forward, \$

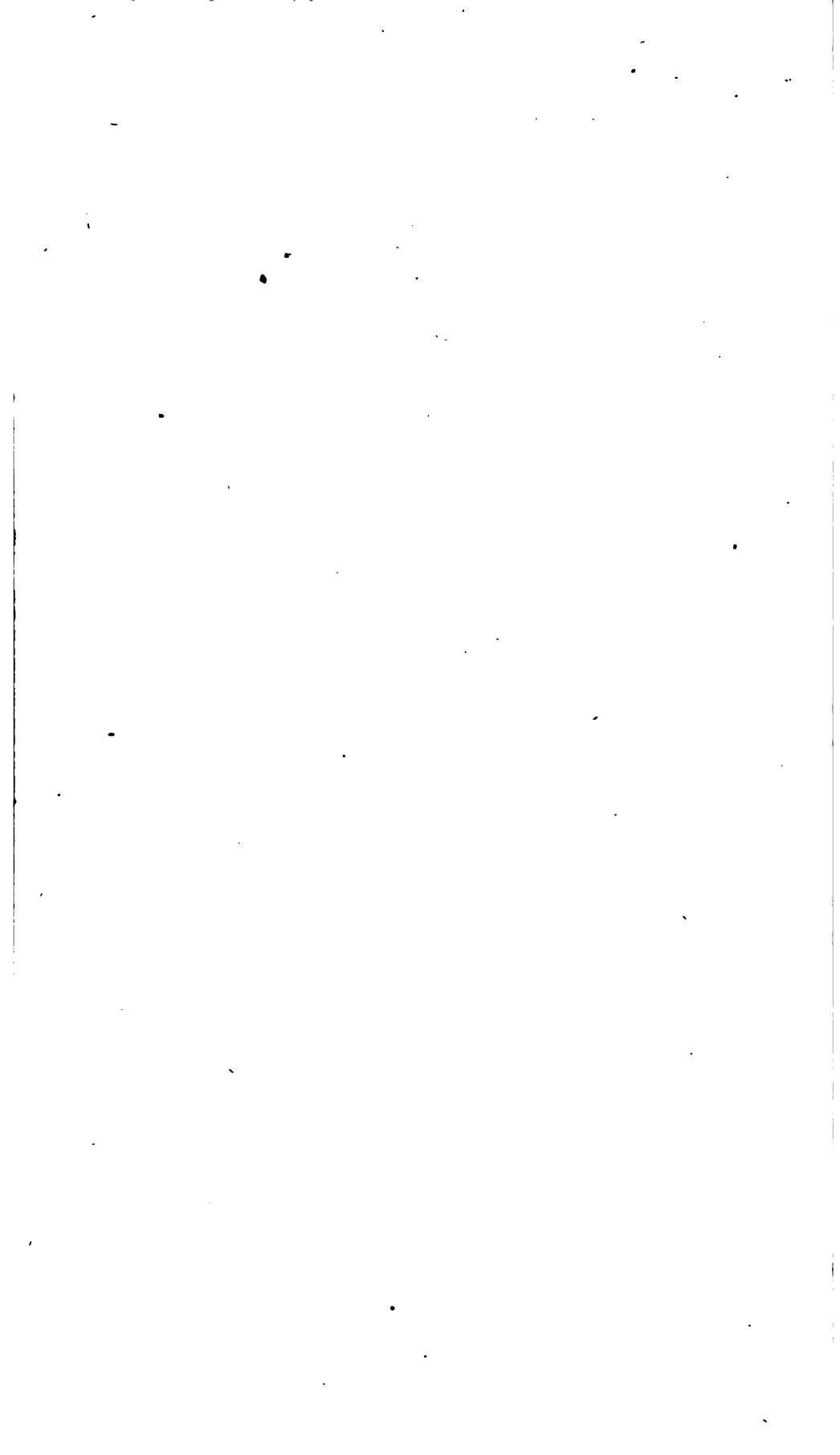
Amount brought forward,.....\$	
For the services of the auctioneer employed to make the	
sales, 27 days at \$5.00,	135 00
	<hr/>
	\$1,664 25

These are all the expenses which have as yet been incurred, and the expenses to be incurred are those to arise from a compliance with the provisions of sections 76 and 77 of the law above referred to, but the amount cannot be told until the time shall arrive for the services to be performed and the expenses incurred. Under the latter section the only expense is the postage upon the lists to be sent to the counties.

All which is respectfully submitted.

SILAS WRIGHT, JR.

Dated Albany, 9th March, 1831.



IN ASSEMBLY,

March 10, 1831.

REPORT

Of the Commissioners of the Land-Office, on the petition of John Shaw and others

The Commissioners of the Land-Office, on the petition of John Shaw and others, referred to them by the Honorable the Assembly,

RESPECTFULLY REPORTS:

That on the 29th May, 1819, John A. Wandell bought lot No. 21 of the tract purchased from the Onondaga Indians, in 1817, containing $159\frac{1}{10}$ acres, for \$1,735.10, of which he then paid \$219 and gave his bond for the remainder. On the 23d Nov. 1818, Asahel Smith bought lot No. 26 of the same tract, containing $151\frac{3}{10}$ acres, for \$1,815.60, of which he then paid \$227 and gave his bond for the remainder. By the act ch. 94 of 1822, the Comptroller was directed to stay all proceedings against the purchasers of lands in this tract until the 22d day of the next December, and then, upon the payment of one year's interest, remit to them all the arrears of interest then remaining, and put to their credit all the previous payments made as so much paid on the principal. The time mentioned in this act, within which the purchasers were to pay one year's interest to entitle them to its provision, was, by the act ch. 16 of 1823, extended to the first of March, in that year.

The petitioners allege that said Smith, at the time the relief was given to the other purchasers, was insolvent and unfit for business, and that the said Wandell was absent and not apprised of the laws granting the relief. It appears by the Comptroller's books that a new account has been opened with Andrew Mesnard, for the one half of lot No. 21, and with Andrew Gibbs, for 80 acres of lot No.

26. Both these offsets have been credited according to the provisions of said acts, but the remainders have not; and the petitioners now pray that the interest due on them may be remitted, alleging that two of the petitioners, to wit: John Shaw and John Morse, have purchased of said Wandell and Smith their respective rights in said lots. These remainders are so far in arrear, that unless payments be soon made to the amount of the interest due on them, they will be advertised for a resale.

Respectfully submitted.

SIMEON DE WITT, *Surv'r General.*

SILAS WRIGHT, JR. *Comptroller.*

A. C. FLAGG, *Secretary.*

GREENE C. BRONSON, *Att'y General.*

March 9, 1831.

IN ASSEMBLY,

March 10, 1831.

REPORT

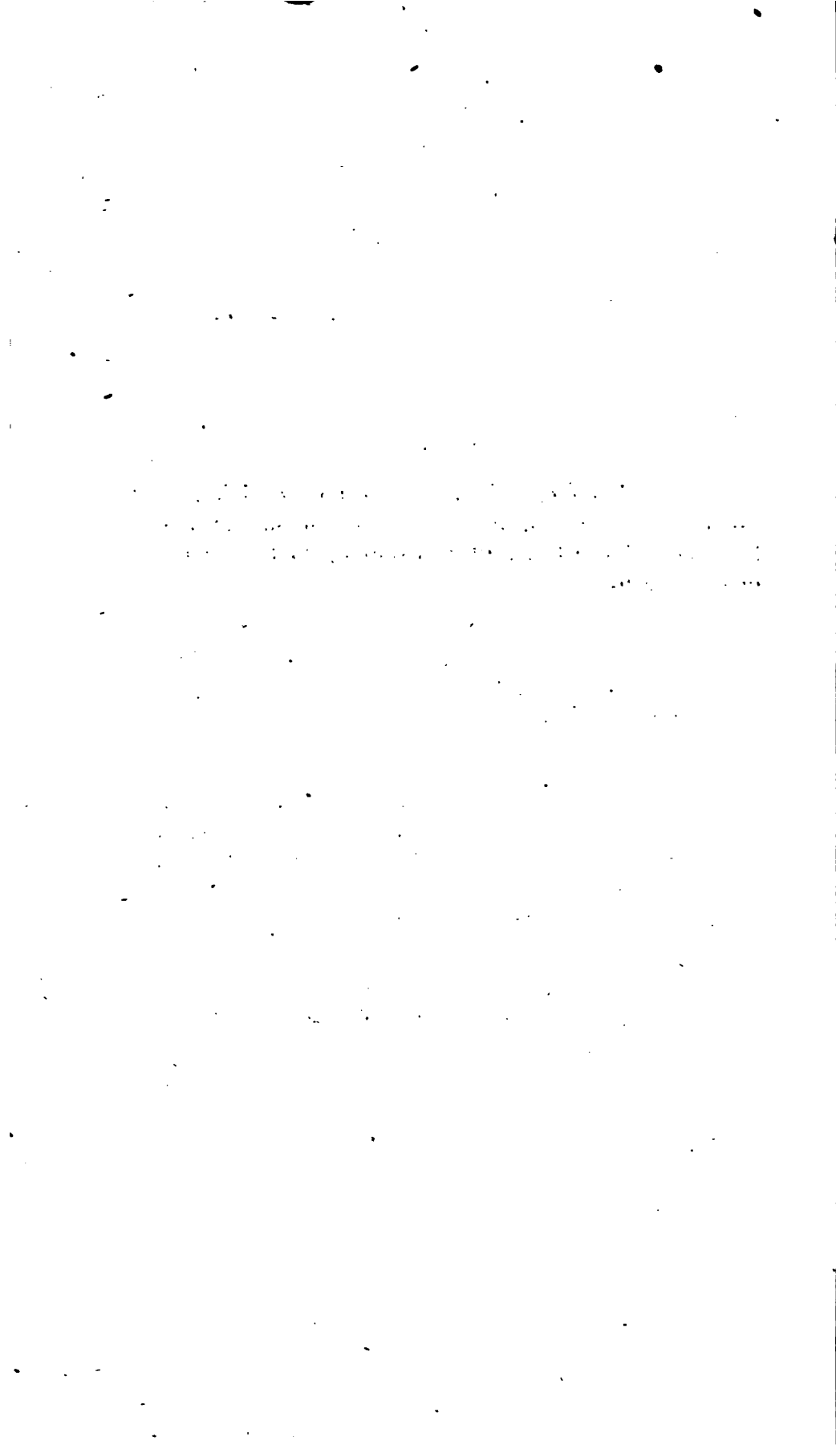
Of the committee on the erection and division of towns and counties, on the petition of sundry inhabitants of the town of Berkshire, for a division of said town.

Mr. Remer, from the committee on the erection and division of towns and counties, to whom was referred the petition of sundry inhabitants of the town of Berkshire in the county of Tioga, praying for a division of said town,

REPORTED—

The town of Berkshire at present includes a territory of about ten miles north and south, and about seven miles east and west, equal to seventy square miles, with a population in 1825 of 1,404, and at this time about 2,000 inhabitants. A division of said town, as prayed for, would nearly divide the said town into two equal parts, both as to territory and population.

The committee are of opinion that said town ought to be divided as prayed for; and they have prepared a bill, and directed their chairman to ask leave to introduce the same.



IN ASSEMBLY,

March 11, 1831.

REPORT

Of the committee on roads and bridges, on the petition of the supervisors of the county of Clinton.

Mr. Fowler, from the committee on roads and bridges and the incorporation of turnpike companies, to which was referred the petition of the supervisors of the county of Clinton,

REPORTED—

The petitioners state, that at the last session of the Legislature, an act was passed for loaning money to the county of Clinton, for the purpose of constructing and improving a road from the village of Plattsburgh west through the town of Saranac, to intersect the Hopkinton and Port-Kent turnpike, within that county; but that the most advantageous point of such intersection is within the county of Franklin, on a route which has important advantages in its direction and distance, as well as in the nature of the ground and other facilities, for making an easy and permanent road; and praying for an amendment of the said act, so as to authorise the commissioners to intersect the Hopkinton and Port-Kent road, about six miles from the county line, in the said county of Franklin.

The petitioners further represent, that the amount of money appropriated for constructing this road will be sufficient to make that part only which lies in the county of Clinton, and that the expense of making the six miles within the county of Franklin, remains unprovided for; that this part of the route is principally in township number nine, which lands belong to the State, and would, by opening this road, become immediately saleable. In undertaking to repay to the State the amount borrowed for this object, the petition-

ers say, that the county has already gone to the full extent of its ability in aid of its accomplishment, and therefore pray that the sum of three thousand five hundred dollars may be appropriated to the construction of that part of the road lying in the county of Franklin; which sum, when raised by the county of Clinton, under the provisions of the act of the last session, may be paid over to the commissioners, and expended in constructing that part of the road, and that such amount be credited by the Comptroller in payment of the money loaned to the said county of Clinton.

In considering that part of the petition claiming an appropriation of three thousand five hundred dollars, the committee have not been able to perceive any adequate inducement to justify them in recommending a compliance with the prayer of the petitioners, by granting any sum of money belonging to the funds of this State. But so far as an amendment of the act of 1830 may be necessary to enable the commissioners to alter the direction of the road in question, and vary the point of its intersection with the Port-Kent and Hopkinton road, the committee are of opinion the prayer of the petitioners is reasonable, and ought to be granted. They have therefore prepared a bill for that purpose, and directed their chairman to ask leave to introduce the same.

IN ASSEMBLY,

March 11, 1831.

COMMUNICATION

**From the Governor, relative to the boundary line
between this State and the State of New-Jersey.**

TO THE LEGISLATURE.

GENTLEMEN,

I consider it my duty to lay before you the accompanying communication from the Attorney-General, concerning our controversy with New-Jersey. The matter to which it relates, derives much of its importance from the grounds assumed by the Judges of the Supreme Court of the United States, with regard to their powers; and I feel bound to present to you my views of the subject, as well as the course which I feel impelled by a regard to the interests and honor of the State to pursue, unless you shall think proper to give it a different direction.

You are apprised by the accompanying papers, and those which have preceded them, from the same source, of the several steps taken by the State of New-Jersey, to compel our appearance before the national judiciary, to contest with her the question of sovereignty over a portion of the waters of the Hudson river.

It seems to be a mere question of sovereignty over the waters, inasmuch as New-Jersey admits in her bill of complaint, that whatever right she may have had to the islands, those rights have been lost by adverse possession and the lapse of time.

The Attorney-General, with my sanction, has hitherto declined to appear in court and respond to the complaint, without intending any disrespect to that high tribunal, and in a manner which I trust

precludes the imputation of such a motive. His refusal to appear was grounded upon the belief, that the court has not been invested with the power to take cognizance of original suits, where a State is made a defendant party. The reasons for this opinion are more fully detailed by the Attorney-General, but may be succinctly stated as follows :

1. It was not designed by the Constitution to confer that power on the court, until Congress had legislated upon it, and declared *what* controversies between States were proper to be entertained by the court, and what should be the mode of proceeding. The Constitution is silent in regard to both of these matters. A strong argument in favor of this construction is afforded by that clause in the Constitution, which, after enumerating the powers of Congress, adds : "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all other powers* vested by the Constitution in the government of the United States, or in any department or officer thereof."

2. That Congress had passed no laws for these purposes.

In 1789, a judiciary act was passed, giving writs and other proceedings in all cases, other than those where a state was defendant. This was a practical construction of the constitution, and showed their opinion that legislation was necessary to enable the court to proceed. And by neglecting to provide specifically, for proceedings in controversies between states, they indicated their opinion that the time had not arrived when it would be proper for the court to entertain such suits. The meaning of Congress is most distinctly marked by the wording of the judiciary act. It grants to the court, the power to issue certain writs, and further, "all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law."

Now, as no mode of proceeding, against a sovereign state, is known to the common law, it would seem to be a fair conclusion, that Congress designed, by precise and unequivocal language, to exclude an implication, that the power to proceed against a state was granted by the act.

3. Although the court has frequently attempted to exercise this power, by entertaining writs against states, and summoning them to

appear and answer, no state has ever obeyed their summons ; thereby virtually denying the power of the court.

4. Several attempts have been made by states to prevail upon Congress, to pass laws for this object ; but they have uniformly refused to vest this power in the court. Two of these attempts, made in 1822 and 1828, are detailed in the several reports of the Attorney-General.

5. The state of New-Jersey has, impliedly, admitted the want of power in the court, by her attempt to obtain the passage of the law in 1822, and by a proposition made through her commissioners, to the commissioners on the part of this State, in 1827, to submit this controversy to the Supreme Court, as an impartial tribunal to arbitrate between the parties.

Taking the foregoing view of the subject, I did not consider myself justified in permitting the State to be represented as a party defendant, before a tribunal which had no right to exercise authority over us, and which, I confidently hoped, would, on a review of its own powers, come to that conclusion.

But the matter has now assumed a new aspect. The opinion of that court shews, that they view the subject differently, or at least are disposed to assume the jurisdiction on an *ex parte* case.

The grounds upon which, it is supposed, that the court claims cognizance of the controversy, are :

1. That ample power is given to them by that clause of the constitution, which ordains that " The judicial power shall extend to controversies between two or more states." That having the power, the means of exercising it are incidental, and that they may, by rules of court, prescribe the forms of proceeding.

2. That the proceedings in suits before that court, prescribed by statute, are applicable to cases where a state is defendant, and that therefore Congress has legislated on the subject ; and,

3. That the decisions of that court have been uniform, in all cases which have come before it, and support the authority of the court.

We have now reached a point in the progress of this litigation, where the future action of the State should be determined upon

with deliberation, and governed by a due sense of all the high responsibilities resting upon us, as citizens of the United States, and members of a corporate state sovereignty. This State can never forget that she is a member of the Union, and has a large stake in its perpetuity. While she will permit no encroachments on the part of the general government, she will put forth her strong arm, in time of need, to support it in the exercise of its acknowledged powers. If, on this occasion, she is compelled to differ with the national judiciary, I have no doubt, that she will do so firmly and dispassionately, and afford a becoming example of respect towards the tribunal deemed worthy, by the founders of our government, to be the depository of the power for preserving the peace of the Union.

It was undoubtedly a part of the design of our government to have a judicial tribunal to decide on all questions of conflicting rights, growing out of the limitations of the sovereignty of the States, and the specific delegations of power to the general government. And one of its special objects was to adjust amicably, all such differences as might arise between the States. The want of such a power, with sufficient energy to enforce its decisions, was one of the leading motives for proposing a Constitution.

Every worthy American must be penetrated with feelings of gratitude, when he contemplates the beautiful structure of our government, and the wonderful harmony and adaptation of its parts. The people, although divided into several communities, are nevertheless, by their compact, bound together in fraternal relations, under a common head, with all the same social interests, duties and feelings, which belong to a consolidated nation. In its great outlines, human wisdom could not devise any thing more perfect, to secure those who live under its protection, in the possession of their rights, and to defend them from the calamities attendant upon civil dissensions. It would have been essentially defective in its arrangements, if provision for the adjustment of disputes between the members of the confederacy had been omitted. An appeal to arms, which is the only means of redress by one nation for the wrongs committed upon it by another, is ill suited to the condition of the members of the same political family.

But in this part of the system, an inherent difficulty reminds us of the imperfection of all human works. Our government is based upon a written Constitution, which is the rule of conduct for all the

constituted authorities. Legislative discretion finds its limits there. Who shall decide when its boundaries are transgressed? If this power had been placed in Congress, then not the Constitution, but the will of that body, would be the fundamental law of the empire. It is in the nature of things, that there must be an irresponsible power, somewhere, and in the adjustment of the parts of our government, it was deemed essential to the uniformity of its action, to place it beyond the influence of those commotions, arising from popular errors, which indiscriminately destroy, and soon pass away. This power was, therefore, intended to be placed in judicial officers, rendered immoveable, save for misconduct.

This body, being the ultimate tribunal from which no appeal lies, must necessarily decide, among other things, upon its own constitutional powers. The only relief from its errors rests in a resort to amendments of the Constitution, to an impeachment of the judges, and in cases of flagrant usurpations, to a refusal by the officers to execute its decrees, or a forcible resistance on the part of the State, which is sought to be subjected to its power.

While we deny to the Supreme Court the right to bring us before its judgment seat, we have no reason to believe that it designs to usurp authority over us, or that it will persist in enforcing a jurisdiction, when it is convinced of its error. Indeed the court seem to invite us to a discussion of their power, in the closing part of their opinion, where they say, that "the question of proceeding to a final decree will be considered as not conclusively settled, until the cause shall come on to be heard in chief."

However clear we may consider the question to be, that the court has no power, yet the only peaceful tribunal which has cognizance of the question has decided it provisionally against us, and it becomes a question of magnitude, whether we shall now assume an attitude of resistance, or whether we shall embrace the opportunity still presented to us, to debate the question.

It will be proper to inquire, in the first place, if any, and what rights of the State will be compromised by an appearance in court, to contest the jurisdiction, and ultimately to try the merits of the dispute between the States. A resort to forcible resistance would be both unwise and unbecoming in the State, except on undisputed ground, and at the last point of forbearance.

It has been feared by some, that if we should appear in court, we should thereby waive our right to object to the jurisdiction in the subsequent progress of the cause. If a law of Congress be necessary to give effect to the Constitution, and the court takes no jurisdiction without it, then an appearance by the State waives nothing. Jurisdiction cannot be conferred by an act which does not extend it over all the States. The Constitution or the law, or both conjointly, may confer such a jurisdiction, but no State can bestow it either by implication or express consent. It is a rule of law, that the consent of a party does not give jurisdiction: a court takes no more power by virtue of it, than an unofficial person. The authority of a tribunal, created by the consent of the parties, is derived from the submission, and cannot be extended beyond its terms. Contending as we do, that the clause of the Constitution which declares, that the judicial power shall extend to controversies between States, is a dormant power, and does not attach to any tribunal until it is vivified by an act of Congress, our appearance, in compliance with a summons from the court, under a protest against its proceedings, will admit nothing.

But supposing that this position is untenable, and that the Constitution should be interpreted to mean to invest the court with a jurisdiction, which it is unable to execute, for want of process to bring the party into court; yet we have a right to contend, and I think we will be sustained by the court, and the enlightened sense of the American people, that the technical rules of law, so proper and expedient in ordinary causes between private parties, ought not to apply to a case so peculiar and momentous. This case is entirely anomalous, involving a great and fundamental question of right. It is to determine the limits of power between a State sovereignty and an arm of the national government, beyond which there is no appeal, except to that which severs the bonds of the Union, and involves us in all the horrors of civil war. Such rights as we contend for are not to be controlled by technicalities, and cannot be waived by any implication. We have too much regard to the public peace; too much respect for the constituted authorities; too much interest in sustaining the National as well as State governments in their proper spheres, to put at defiance any branch of authority created by the Constitution, until argument and remonstrance are exhausted.

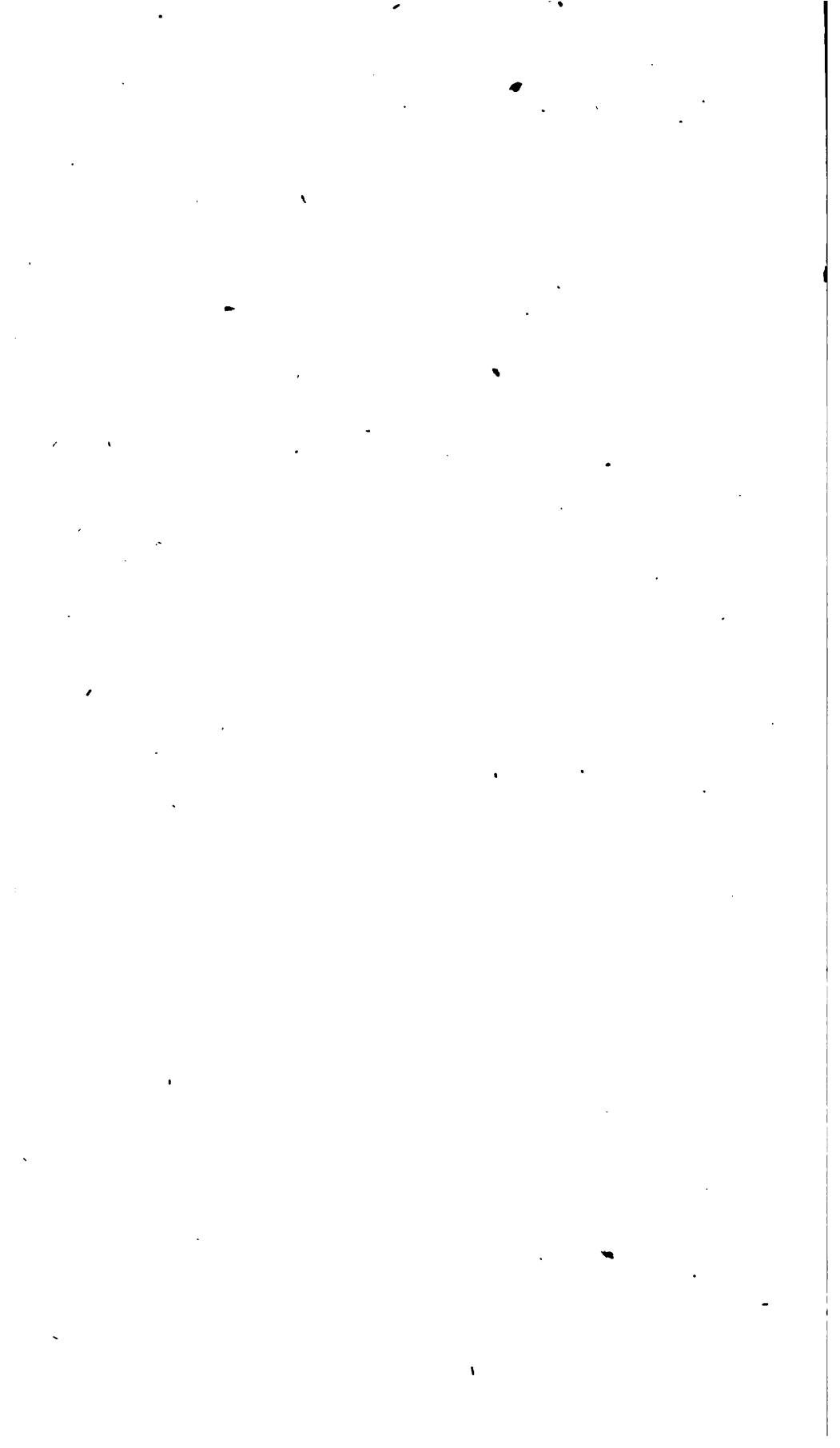
: We have great confidence, that should the merits of the controversy between this State and New-Jersey be examined, they will

be found to rest with us. If this should be the result of an investigation before the court, it would quiet this hitherto vexatious dispute, which has so long disturbed our harmony with a sister State. If, however, a judgment should pass contrary to our expectations, and justice should not demand of us to cede the disputed territory, and we should still deny the authority of the tribunal, we should then be in as good a condition to resist the execution of the judgment, as if it had passed against us by default of appearance.

As the court has seen fit to select the Executive and Attorney-General, as the proper persons to bring into their court, as the representatives of the State, I shall, unless otherwise directed by the Legislature, instruct the Attorney-General to protest against any waiver of right by appearing, and to appear and contest the suit in its progress, to its final determination.

E. T. THROOP.

Albany, March 10, 1831.



REPORT OF THE ATTORNEY-GENERAL.

Albany, February 24, 1831.

His Excellency ENOS T. THROOP,
Governor of the State of New-York.

SIR—

It has become my duty again to invite the attention of your Excellency, to the suit commenced in the Supreme Court of the United States, by the State of New-Jersey, against the People of the State of New-York. And in doing so, it may be proper to give a brief account of the nature and progress of this litigation.

In June, 1829, a copy of the bill filed by the State of New-Jersey, and a subpoena to appear and answer, were served upon the Governor and Attorney-General. The subpoena was directed to those officers, and commanded them to appear “on behalf of the people of the State of New-York,” which they were not to omit “under the penalty of five hundred dollars.”

The bill filed by the State of New-Jersey, after setting forth letters patent granted by king Charles the second, to his brother James, duke of York, in 1664, and several other grants, proceeds as follows : “And your complainants respectfully insist, that by the fair construction of the grants before mentioned, and by the principles of public law, the State of New-Jersey is justly and lawfully entitled to the exclusive jurisdiction and property of and over the waters of the Hudson river, from the forty-first degree of latitude, to the bay of New-York, to the *filum aquæ*, or midway of the said river ; and to the midway or channel of the said bay of New-York, and the whole of Staten-Island Sound, together with the land covered by the water of the said river, bay, and sound, in the like extent.

“And your complainants well hoped that the people of the State of New-York, would have permitted your complainants peaceably and quietly to enjoy her said rights of property, jurisdiction and sovereignty, over the said waters, and land covered with water, of the said river Hudson, and the other dividing waters of the Bay of New-York, without the interruption and disturbance of the State of New-York, as in justice and equity she ought to have done. But

now, so it is, may it please your honors, that the people of the State of New-York, intending to encroach upon and aggrieve the State of New-Jersey in her lawful rights, at an early period of the settlement of the said States, and while they were colonies, wrongfully and forcibly possessed herself of the said island, called Staten-Island, and the other small islands in the dividing waters between the two States ; and your complainants then being a feeble colony, and under a proprietary government, although the right of New-Jersey was publicly and frequently urged to the said islands, she could oppose no effectual resistance to the said encroachment of the State of New-York, which was then under royal patronage, and her inhabitants exempted from the taxation which New-Jersey was obliged to impose upon her citizens ; that the possession thus acquired by New-York, has been since that time acquiesced in, and the State of New-York refuses to yield up to your complainants the said islands, insisting that by the principles of public law, the said possession of the said islands, has established the title to the same in herself ; but your complainants insist and charge, that although it may be true, that the long continued possession of New-York of the said islands, may conclude your complainants from disturbing the same at this time, and which your complainants are willing, for the sake of peace, to admit ; yet that the State of New-York has no other pretence of title to the said islands, on which she can rely, but the said adverse possession ; and that inasmuch as the said possession of those islands by the State of New-York, has been uniformly confined in its exercise to the fast land thereof, your complainants insist, that the title of New-Jersey to the whole waters of the Staten-Island Sound, remains clear and absolute in your complainants, according to the terms of the said herein recited grants." The principal prayer of the bill is, that " the eastern boundary line between your complainants and the State of New-York, may by the order and decree of this honorable court, be ascertained and established, and that the rights of property, jurisdiction and sovereignty of your complainants to the *filum aquæ*, or middle of said Hudson river, from the forty-first degree of north latitude on the said Hudson river, through the whole line of the eastern shore of the State of New-Jersey, as far as the said river washes and bounds the said State of New-Jersey, down to the Bay of New-York, and to the channel or midway of the said bay ; and to all the waters and the land they cover, lying between the New-Jersey shore and Staten-Island, and all other waters washing the southern shores of New-Jersey within and above the Narrows ; and that your complainants may be quieted

in the full and free enjoyment of her property, jurisdiction and sovereignty, in the waters aforesaid, and that the right, title, jurisdiction and sovereignty of New-Jersey in and over the same, as part of her public domains, be confirmed and established by the decree of this honorable court."

There may be some difficulty in ascertaining from the statements and allegations in the bill, whether the State of New-Jersey intends to claim any thing more than the right of territorial jurisdiction, separate from the right of property in the soil. If the claim be of this description, it will be difficult to find a precedent for its adjustment, either in a court of law or of equity jurisdiction. And if a right of property is asserted, it would seem to be a case requiring a trial at law in some of those actions which have been devised for determining the right to real property. In the one case, a question is presented in relation to the jurisdiction of the court over the subject matter in litigation; and in the other, a question going only to the form of the remedy.

But these were questions of less immediate importance than the one presented by this proceeding, whether the Supreme Court of the United States could exercise original and compulsory jurisdiction over a State. Having at an early day expressed to your Excellency and the Legislature, an opinion that the court could not take cognizance of the suit, I deem it proper on this occasion, briefly to state some of the grounds upon which that opinion was founded.

The Constitution of the United States, (Art. III. sec. 2,) declares among other things, that "the judicial power—shall extend to controversies between two or more States; between a State and citizens of another State—and between a State, or the citizens thereof, and foreign States, citizens or subjects." The 11th amendment to the constitution declares, that "the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State." Without considering whether this ought to be regarded as a construction, rather than as an amendment to the Constitution, and conceding that the judicial power of the United States extends to controversies between States, it still remains to be considered, whether the grant of jurisdiction by the Constitution included also the means of carrying it into execution; or whether those means were to be provided by Congress.

The Constitution provides, (Art. III. sec. 1,) that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish;" but neither the number of Judges of which the Supreme Court should consist, or the times or places of their meeting, nor the amount of their compensation, was settled. These, with many other essential things, were left for the determination of Congress, in filling up the great outline that had been marked out by the Constitution. That legislation would be necessary in the organization of the new government, and its several departments, was foreseen and provided for by the framers of the Constitution. That instrument declares, (Art. I. sec. 8, sub. 17,) that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." In this provision a distinction is plainly recognized between a power vested by the Constitution in any department of the government, and the necessary means of carrying that power into execution.

There is, therefore, nothing absurd in saying, that a power conferred by the Constitution may remain dormant, if Congress, for any cause shall omit to pass the necessary laws for bringing it into exercise. Had no laws been passed, providing for the organization of the supreme or the other courts of the United States, the whole judicial power would have remained a dead letter in the Constitution. If, after the number of Judges of which the Supreme Court should consist had been fixed by law, and the offices had been filled, no times or places had been assigned by law for their meeting, there would have been Judges, but no court. And if, when that court was duly organized, no process had been given to bring before it the persons to be affected by its judgments; or if process had been given, without the proper officers to execute it, the court would still have been without the means of exercising its constitutional authority.

Such, no doubt, were the views entertained by the members of the first Congress that assembled under the Constitution. They proceeded to pass the necessary laws for the organization of the federal courts, and to provide them with process, and officers to execute their commands. But it is believed, that neither the first nor any subsequent Congress has passed any such laws as were necessary for carrying into execution that portion of the judicial power which extends to controversies between two or more States.

It is a fundamental principle in our laws, admitting of but few and special exceptions, that no court can give a valid judgment until it has acquired jurisdiction over the person of the defendant. In relation to all those suits against individuals and corporations, of which the federal courts have cognizance, it is not denied that they have been provided with the means of acquiring jurisdiction over the persons, (whether natural or artificial,) to be affected by their judgments. But to acquire jurisdiction over a State, it is believed that some other means were necessary than such writs as are "agreeable to the principles and usages of law;" for the reason that there was never any principle or usage of law to issue writs or legal process of any description against a State or independent government. Nor is it supposed that giving "forms and modes of proceeding," in equity cases, "according to the principles, rules and usages which belong to courts of equity," can reach the case of a State made a defendant; for the reason that there were no pre-existing forms or modes of proceeding against a State, nor were there any principles, rules or usages by which a court of equity could acquire jurisdiction over an independent government.

Without going into any particular examination of the acts of Congress relating to the judicial power of the United States, it may be sufficient in this place to say, that the grant of original jurisdiction over a State, was a new and extraordinary power: And if the federal courts could not exercise their ordinary jurisdiction over individuals, without the authority of an act of Congress for that purpose, it must be apparent, that this case called for special legislative provisions. A law giving to the federal courts such "forms of writs and executions," and "modes of process," in the several States, as were then "used and allowed in the Supreme Courts of the same," would sufficiently provide for impleading individuals, but would make no advances towards carrying into execution the power to implead a State.

In the case of corporations, the law had provided the appropriate process for compelling their appearance, and directed the mode in which service was to be made; but against a State or sovereignty, no process for compelling an appearance had ever been devised, nor had any means been pointed out, by which the defendant could be summoned to answer the complainant. It was, therefore, necessary in providing for the exercise of this power, either that some new

writ, summons or process, adapted to the case, should be given ; or that a new quality or efficacy should be imparted to those then in use. It was also necessary to direct in what manner such process should be served ; whether upon the Governor, or some other officer, executive or judicial, or upon the Legislature of the defendant State : whether some person should be required by law to appear for the State, or under what circumstances the court should be authorized to proceed *ex parte*. The means also by which a State should answer the complaint, whether through its Legislature, or some one or more of its executive officers, were all to be provided, for the reason that none of those things were previously known to the laws, or to any forms of judicial proceedings. These are only a sample of the many provisions that seem to be necessary in such a case. Similar difficulties must exist in every stage of the proceeding, and instead of diminishing, they will be found to multiply and increase in importance, in the consideration of the final decree or judgment to be rendered, and the proper means for carrying it into execution.

Although it was not designed, in this communication, to go beyond a brief statement of the leading reasons for the opinion that has been expressed, it may be proper to notice several cases which came before the court between the years 1790 and 1800, in which the court entertained jurisdiction against a State. The case of *Georgia against Brailsford*, determines nothing upon this question, for the reason that the State was the complainant in the bill, and so a voluntary party to the suit. And in relation to all the cases that came before the court, it is not unimportant to remark that no one appeared to argue against the exercise of jurisdiction ; and in only two of the cases did the court deliver any opinion upon that question. Those were the cases of *Chisholm against the State of Georgia*, decided in February term, 1793, and *Grayson against the State of Virginia*, decided in August term, 1796. In the first case, the leading question discussed by the judges who maintained the jurisdiction of the court, was, whether upon the true construction of the constitution, a State could be made a party defendant, and not whether the means of exercising jurisdiction had been provided by Congress. Mr. Justice Iredell was the only one that entered distinctly into the latter question, and he arrived at the following conclusions : “ 1st. That the constitution, so far as it respects the judicial authority, can only be carried into effect by acts of the legislature appointing courts, and prescribing their methods of proceeding. 2d. That Congress has provided no new law in regard to this case, but ex-

pressly referred us to the old. 3d. That there are no principles of the old law, to which we must have recourse, that in any manner authorise the present suit, either by precedent or by analogy. The consequence of which, in my opinion, clearly is, that the suit in question cannot be maintained."

In the case of Grayson against Virginia, after the service of a subpoena, a motion was made for a distringas to compel the State to enter an appearance ; but the court postponed a decision, " in consequence of a doubt whether the remedy to compel the appearance of a State, should be furnished by the court itself, or by the legislature." Two general rules were finally adopted, the first of which was in the following words : " Ordered that when process at common law, or in equity, shall issue against a State, the same shall be served upon the Governor, or chief executive magistrate, and the Attorney-General of such State." The validity of this rule manifestly depended upon the power of the court to provide the means for impleading a State. It is true, that the federal courts were authorised by statute, " to make and establish all necessary rules for the orderly conducting business in the said courts ;" but it is believed that this was only an authority to regulate proceedings in cases where the court had jurisdiction by law ; and not a power by which jurisdiction could be acquired. The like remark is applicable to another provision, by which the courts of the United States were authorised to make alterations and additions in the forms of writs, and in the forms and mode of proceeding. Congress made direct and appropriate provisions for carrying into execution every portion of the judicial power, except that which related to the impleading of a State. And to place the jurisdiction of the court in this case, upon its power to make rules and regulate practice, is to suppose that Congress intended to do indirectly what it was not prepared to do by direct and specific legislation. And besides, if the power to make rules, and to regulate practice, was sufficient to enable the court to exercise this new and extraordinary jurisdiction over a State, it was most clearly sufficient to enable the federal courts to exercise every other portion of their jurisdiction ; and all the other legislation upon this subject has been useless.

But whether this rule was originally valid or not, it was supposed to be obsolete, for the reason that it was not to be found in any subsequent publication of the rules of the court. This was one of two rules, which originally appeared together, in the report of the case

of Grayson against Virginia ; one of which has been regularly re-published ever since, the other never, until within the past year. Mr. Peters, in his Reports, says, that this omission arose from the fact, that it was not regularly entered by the clerk at the time of its adoption.

The doctrine that the Supreme Court of the United States cannot exercise original and compulsory jurisdiction over a State, has the sanction of much higher authority than any opinion I may entertain upon the subject.

None of the five States sued at the period already mentioned, were suspected either of a want of patriotism, or of attachment to the Union ; yet each of those States, to wit : Connecticut, New-York, Virginia, South-Carolina, and Georgia, neglected or refused to appear and submit to the jurisdiction of the court.

The decision of the court, entreating jurisdiction, produced great dissatisfaction, and resulted in the adoption, by at least three-fourths of the States, of the eleventh amendment to the Constitution, which put an end to all of the suits then depending, before a final judgment had been recovered in either of them.

This controversy, and others of a similar character, have existed for the last thirty years ; and yet it is believed, that this is the first instance during that period, in which an attempt has been made to implead a State.

It is believed, that the commissioners on the part of New-Jersey, among whom were several distinguished lawyers, manifested their opinion, that the court could not exercise compulsory jurisdiction over a State, by a proposition for a voluntary submission of the matter in controversy to the Supreme Court of the United States. See their letters to the New-York Commissioners of the 15th and 17th September, 1827. Senate journal, 1828, appendix A.

Bills have been repeatedly presented to Congress, " prescribing the mode of commencing, prosecuting and deciding controversies between States ;" but they have never met with the approbation of the Legislature. One or more of those bills were brought in by the Senators from New-Jersey, who are reported to have admitted in the discussion of the bills, as did other Senators who were in favor of

bringing this power into exercise, that the Supreme Court could not exercise this jurisdiction without an act of Congress for that purpose, and that no such act had been passed. And those bills are said to have been opposed and rejected, not on the ground that the court could act without further legislation, but on the ground that the measure was inexpedient; and that the harmony of the Union would be best preserved by leaving dormant in the Constitution that portion of the judicial power which extends to controversies between States.

It is believed, therefore, that it may be truly said, that Congress has not only omitted, but that it has actually refused to pass the necessary laws for carrying into execution the judicial power over a State.

It may not be improper to add, that when this case came before the court, in February, 1830, (3 Peters 461,) neither the counsel for the State of New-Jersey, nor the court itself, treated this as a question that had been already settled, or as one free from difficulty. Mr. Wirt, on behalf of New-Jersey, asked the court to assign a day for the argument of the question of jurisdiction, before another subpoena should issue; saying, "it might, if decided against the plaintiffs, prevent unnecessary expense." And the court did assign a day for the argument of that question: and the Chief Justice added, that "if the argument should be merely ex parte, the court would not feel bound by its decision, if the State of New-York afterwards desired to have the question again argued." The court at a subsequent day, and without argument, awarded further process upon the ground of previous precedents; saying, however, "the State of New-York will still be at liberty to contest the proceeding at a future time in the course of the cause, if it shall choose to insist upon the objection."

This question is distinct from those in which the Supreme Court exercises an appellate jurisdiction, where a State may have been a party in the court below. In all such cases, the State is plaintiff, and so a voluntary party to the original proceeding: and although the parties are reversed in the forms of proceeding in the appellate court, it is still a continuance of the same suit, and cannot properly be said to be the commencement or prosecution of a suit against a State. There is this further distinction, that a writ of error acts only upon the record, and not upon the parties to it. It is directed

not to the party, but to the court in which the judgment was rendered, and directs that the record be sent into the appellate court for review. A citation is issued, but it is only for the purpose of advising the party, that the judgment will be reviewed; and neither an appearance or any other act on his part is required. This jurisdiction does not depend upon the character of the parties, but upon the character of the cause: and its exercise has been amply provided for by the 25th section of the judiciary act of 1789.

I submit herewith, marked D. a copy of one of the bills that have been before the Senate of the United States, on this subject. It was introduced by Mr. Dickerson, one of the Senators from New-Jersey, on the tenth day of January, 1822; and is entitled, "A bill prescribing the mode of commencing, prosecuting and deciding controversies between States." At the close of the paper marked D. another bill upon the same subject, brought in by Mr. Robbins, one of the Senators from Rhode-Island, on the eleventh day of December, 1828, is mentioned, and the difference between the two bills is pointed out. From these bills it will be seen, that the advocates for bringing into exercise this portion of the judicial power of the United States, have considered it a matter of great delicacy and importance, and one requiring very special legislative provisions. Several other bills having the same object in view, have at different periods been presented to Congress, but I have only seen copies of the two already mentioned.

But independent of the opinion which I entertained in relation to the power of the court, this was a proceeding against the State in its sovereign capacity, and involving its territorial jurisdiction. And whether the State should, or should not render a voluntary submission to the proceeding by appearing and answering the complaint, was a question belonging either to the Governor or the Legislature, and not to the Attorney-General, or any subordinate agent of the government. This opinion was suggested in a communication to your Excellency, in July 1829, soon after the suit was instituted, and again in my communication in December following, which was laid before the Legislature by your Excellency, on the opening of the session of 1830.

The bills presented to Congress, for the purpose of carrying into execution that portion of the judicial power which relates to controversies between States, directed that the State made a defendant

should be notified by the service of a certified copy of the bill of complaint, and all documents, upon the Governor or chief executive officer of the defendant State; and that a notification should be served by the marshal on the Legislature of the defendant State, at the time of serving a copy of the bill. Those bills further provided, that no person should be permitted to act for the defendant State, unless legally authorized by the Legislature thereof: and that certain rules should be granted against the Legislature of the State impleaded. These provisions sufficiently indicate, that the advocates for bringing into exercise this portion of the judicial power of the United States, thought such a proceeding of sufficient importance to be presented to the State in its sovereign capacity, and to be acted upon by its Legislature.

The first process issued in the cause was made returnable on the first Monday in August 1829. The Supreme Court of the United States does not sit at that period in the year; but it is a day on which rules may be entered, in the exercise of the ordinary equity jurisdiction of the court. It was thought proper to advise the clerk of the court, that this was not deemed a proper case for entering orders as of course: and a letter was addressed to him on the 27th of July, 1829, a copy of which, marked A, is hereunto annexed. The clerk was requested to lay that letter before the court, should the subject at any time be presented for its consideration.

On the 26th day of December, 1829, I addressed a communication to your Excellency, which has been before mentioned, and which will be found in the legislative documents for 1830, No. 4.

While at the city of Washington in the discharge of other official duties, I was, on the thirteenth day of January, 1830, served with a notice that the Supreme Court would be moved on the thirteenth day of February following, to proceed *ex parte* in the cause, and to take the bill filed by New-Jersey as confessed, and to render a decree in conformity with the prayer thereof. Not having received any instructions to appear in the suit, and thinking it improper to do so without authority, I addressed a letter to the Chief Justice and associate justices of the Supreme Court, on the eve of my departure from Washington; a copy of which, marked B, is hereunto annexed.

When that motion came on to be heard, the Court awarded further process, without passing upon the question of jurisdiction. That process was afterwards served, and was returnable on the second Monday of January last. In my communication on that subject, at the commencement of the present session of the Legislature, it was mentioned that a decision of the question of jurisdiction might be expected at the present term of the Court.

On the fifth day of the present month, a motion was made on the part of New-Jersey, in relation to the further progress of the suit: and an opinion has since been delivered, and an order or decree been made by the Court, copies of which, marked C, are hereunto annexed. The order is, in substance, that the complainant be at liberty to proceed *ex parte*, and that unless the defendant, being served with a copy of the decree sixty days before the ensuing August term of the Court, shall appear on the second day of the next January term thereof, and answers the bill, the Court will proceed to hear the cause on the part of the complainant, and decree on the matter of the bill.

Although this order appears to be absolute, that the Court will proceed to a decree, the concluding paragraph of the opinion will shew that it was not so intended. The language of the opinion, after stating that the Court would proceed to a final hearing and decision, is as follows—"But, inasmuch as no final decree has been pronounced, or judgment rendered, in any suit heretofore instituted in this Court against a State, the question of proceeding to a final decree will be considered as not conclusively settled, until the cause shall come on to be heard in chief."

Two remarks are respectfully submitted upon this opinion.

The Chief Justice and those justices who concurred with him in opinion, have regarded the question of jurisdiction as one that had been previously adjudged; without saying what would be their opinions independent of the former decisions.

The jurisdiction asserted extends only to the power of hearing the parties, while the question of proceeding to a final decree, (without which the litigation, to say the least, would be useless,) is to be considered as not conclusively settled.

It will be seen that nothing has yet been done to prejudice the rights of the State, if it shall be thought proper, either as a matter of duty or expediency, to appear and defend the suit. But if that question is to be passed upon by the Legislature, it ought to be done before the close of the present session.

I am, with great respect,
Your Excellency's
Obedient humble servant,

GREENE C. BRONSON,
Attorney-General.



DOCUMENTS.

(A.)

Utica, (N. Y.) July 27, 1829.

WILLIAM THOMAS CARROLL, Esq.

Clerk of the Supreme Court of the United States.

SIR—

The Governor and Attorney-General of the State of New-York, were recently served with the copy of a bill in equity, said to have been exhibited in the supreme court of the United States, by "*The State of New-Jersey, vs. The People of the State of New-York*;" and with a subpoena in that cause, to appear on the first Monday of August next.

I beg leave respectfully to say, that such service is regarded, on the part of the State of New-York, as utterly void; because the mode adopted is unknown to the common law, is not authorised by any statute of the United States, nor warranted by any existing rule or order of the court out of which the process issued. A rule on the subject of the service of process upon a State as defendant, was adopted in August term, 1796, (3 Dall. Rep. 320, 335); but this rule, (so far as I have observed,) has been omitted in every subsequent publication of the rules of the supreme court, and is no doubt obsolete.

Entertaining this view of the subject, it is supposed that no proceeding will be had in the cause, either in vacation or at term, until the court shall have directed the mode of serving such process, and the prescribed course shall have been pursued.

Whether the court has been clothed with power to compel the appearance of a State as defendant, in an original suit or proceeding, is a question, (among others,) which will no doubt receive from that high tribunal, all the consideration that its importance demands, before any order shall be made in the premises.

I will thank you to hand this to the court, if the subject shall ever be presented to their consideration; and should any rule, or order be made in, or affecting this cause, please send a certified copy, addressed to me at Albany.

I am sir, with great respect,

Your obedient servant,

GREENE C. BRONSON,

Att'y. Gen. State of New-York.

(B.)

*Washington City, Feb. 8, 1830.**To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States.*

A bill has been exhibited in this court by the State of New-Jersey, against ~~the~~ People of the State of New-York, concerning the boundary line between the two States ; and a subpoena to appear and answer, with a copy of the bill, has been served upon the Governor of the State of New-York. A notice has recently been served, that on the 13th instant the court would be moved to take the bill *pro confesso*, and proceed to a decree for the want of an appearance.

I beg leave most respectfully to say, that the opinion is entertained, on the part of the State of New-York, that this court cannot exercise jurisdiction in such a case, without the authority of an act of Congress, for carrying into execution that portion of the judicial power of the United States, which extends to controversies between two or more States.

The Governor of the State of New-York has made a communication upon the subject of this suit to the Legislature, now in session, but it has not yet been acted upon, so far as I have been advised. Whether the Legislature will authorise any person to appear and discuss the question of jurisdiction ; or, whether for the purpose of obtaining a judicial decision upon the merits of an unfortunate controversy, they will order an appearance, waiving the question of jurisdiction, I am, at this time, unable to determine.

I have deemed it proper to make this communication, to explain what might otherwise be supposed a want of respect for this honorable court, on the part of the Executive Authority of the State of New-York.

GREENE C. BRONSON,
Atty. Gen. State of New-York.

(C.)

Opinion and Order of the Supreme Court of the United States.

The State of New-Jersey, against The People of the State of New-York.	}	Opinion and order of the Supreme Court of the United States, deliver- ed by Mr. Chief Justice Marshall.— January term, 1831.
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This is a bill filed by the State of New-Jersey against the State of New-York, for the purpose of ascertaining and settling the boundary between the two States.

The constitution of the United States declares that "the judicial power shall extend" "to controversies between two or more States." It also declares that "in all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction."

Congress has passed no act for the special purpose of prescribing the mode of proceeding in suits instituted against a State, or in any suit in which the Supreme Court is to exercise the original jurisdiction conferred by the constitution.

The act "to establish the judicial courts of the United States," sec. 13 enacts, "that the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a State is a party, except between a State and its citizens; and except also between a State and citizens of other States, or aliens; in which latter case, it shall have original but not exclusive jurisdiction." It also enacts, sec. 14, "that all the before mentioned courts of the United States, shall have power to issue writs of scire facias, habeas corpus, and all other writs not specially provided by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law." By the 17th section it is enacted "that all the said courts of the United States shall have power" "to make and establish all necessary rules for the ordinary conducting business in the said courts, provided such rules are not repugnant to the laws of the United States."

"An act to regulate processes in the courts of the United States," was passed at the same session with the judicial act, and was depending before Congress at the same time. It enacts "that all writs and processes issuing from a supreme or a circuit court, shall bear teste," &c. This act was rendered perpetual in 1792. The first section of the act of 1792, repeats the provision respecting writs and processes issuing from the supreme or a circuit court. The second continues the form of writs, &c. and the forms and modes of proceeding in suits at common law prescribed in the original act; "and in those of equity, and in those of admiralty and maritime jurisdiction, according to the principles, rules and usages which belong to courts of equity and to courts of admiralty respectively, as contradistinguished from courts of common law; except so far as may have been provided for by the act to establish the judicial courts of the United States; subject however to such alterations and additions as the said

courts respectively shall, in their discretion, deem expedient, or to such regulations as the Supreme Court of the United States shall think proper, from time to time, by rule to prescribe to any circuit or district court concerning the same."

At a very early period in our judicial history, suits were instituted in this Court against States, and the questions concerning its jurisdiction and mode of proceeding, were necessarily considered. So early as August 1792, an injunction was awarded at the prayer of the State of Georgia to stay a sum of money recovered by Brailsford, a British subject, which was claimed by Georgia under her acts of confiscation. This was an exercise of the original jurisdiction of the Court, and no doubt of its propriety was expressed.

In February 1793, the case of *Oswald vs. The State of New-York*, came on. This was a suit at common law. The State not appearing on the return of the process, proclamation was made, and the following order entered by the court—"Unless the State appear by the first day of the next term, or show cause to the contrary, judgment will be entered by default against the said State."

At the same term, the case of *Chisholm's executors against the State of Georgia* came on, and was argued for the plaintiffs by the then Attorney-General, Mr. Randolph. The judges delivered their opinions seriatim; and those opinions bear ample testimony to the profound consideration they had bestowed on every question arising in the case. Mr. Chief Justice Jay, Mr. Justice Cushing, Mr. Justice Wilson and Mr. Justice Blair, decided in favor of the jurisdiction of the Court, and that the process served on the Governor and Attorney-General of the State was sufficient. Mr. Justice Iredell thought an act of Congress necessary to enable the court to exercise its jurisdiction.

After directing the declaration to be filed, and copies of it to be served on the Governor and Attorney-General of the State of Georgia, the Court ordered, "that unless the said State shall either in due form appear, or show cause to the contrary in this Court by the first day of the next term, judgment by default shall be entered against the said State."

In February term 1794, judgment was rendered for the plaintiff, and a writ of inquiry was awarded, but the 11th amendment to the constitution prevented its execution.

Grayson vs. The State of Virginia, 3 Dallas, 320, 1st Peters cond. Reports, 141, was a bill in equity. The subpoena having been returned executed, the plaintiff moved for a distringas to compel the appearance of the State. The Court postponed its decision on the motion in consequence of a doubt, whether the remedy to compel the appearance of the State should be furnished by the Court itself, or by the Legislature. At a subsequent term, the Court, "after a particular examination of its powers," determined that, though "the general rule prescribed by the adoption of that practice which is founded on the custom and usage of courts of admiralty and equity," "still it was thought that we are also authorised to make such deviations as are necessary to adapt the process and rules of the Court

to the peculiar circumstances of this country, subject to the interposition, alteration and control of the Legislature.

We have therefore agreed to make the following general orders.

1. Ordered, that when process at common law or in equity, shall issue against a State, the same shall be served upon the Governor or chief executive magistrate, and the Attorney-General of such State.

2. Ordered, that process of subpoena issuing out of this court in any suit in equity, shall be served on the defendant sixty days before the return day of the said process; and further, that if the defendant on such service of the subpoena, shall not appear at the return day contained therein, the complainant shall be at liberty to proceed *ex parte*."

In *Huger & al. vs. the State of South-Carolina*, 339, Dallas, 339, the service of the subpoena having been proved, the court determined, that the complainant was at liberty to proceed *ex parte*. He accordingly moved for and obtained commissions to take the examination of witnesses in several of the States.

Fowler & al. vs. Lindsey & al. and Fowler & al. vs. Miller, 3 Dallas, 411, were ejectments depending in the circuit court for the district of Connecticut, for lands over which both New-York and Connecticut claimed jurisdiction. A rule to show cause why these suits should not be removed into the Supreme Court by certiorari was discharged because a State was neither nominally nor substantially a party. No doubt was entertained of the propriety of exercising original jurisdiction, had a State been a party on the record.

In consequence of the rejection of this motion for a certiorari, the State of New-York, in August term, 1799, filed a bill against the State of Connecticut, 4 Dallas 1, 1st Peters Cond. Reports 203, which contained an historical account of the title of New-York to the soil and jurisdiction of the tract of land in dispute; set forth an agreement of the 23th of November, 1783, between the two States on the subject; and prayed a discovery, relief, and injunction to stay the proceedings in the ejectments depending in the circuit court of Connecticut.

The injunction was, on argument, refused, because the State of New-York was not a party to the ejectments, nor interested in their decision.

It has then been settled by our predecessors, on great deliberation, that this court may exercise its original jurisdiction in suits against a State, under the authority conferred by the Constitution, and existing acts of Congress. The rule respecting the process, the persons on whom it is to be served, and the time of service, is fixed. The course of the court on the failure of the State to appear after the due service of process has been also prescribed.

In this case, the subpoena has been served as is required by the rule. The complainant according to the practice of the court, and according to the general order made in the case of *Grayson vs. the Commonwealth of Virginia*, has a right to proceed *ex parte*, and the court will make an order to that effect, that the cause may be prepared for a final hearing. If upon being served with a copy of such order, the defendant shall still fail to appear or to show cause to the contrary, this court will, so soon thereafter as the cause shall be

prepared by the complainant, proceed to a final hearing and decision thereof. But inasmuch as no final decree has been pronounced or judgment rendered in any suit heretofore instituted in this court against a State, the question of proceeding to a final decree will be considered as not conclusively settled until the cause shall come on to be heard in chief.

Mr. Justice Baldwin did not concur in the opinion of the court directing the order made in the cause.

The State of New-Jersey, Complainant,
against
 The People of the State of New-York, De-
 fendant.

The subpoena in this cause having been returned executed, sixty days before the return day thereof, and the defendant having failed to appear, it is, on the motion of the complainant, decreed and ordered, that the complainant be at liberty to proceed *ex parte*; and it is further decreed and ordered, that unless the defendant being served with a copy of this decree, sixty days before the ensuing August term of this court, shall appear on the second day of the next January term thereof, and answer the bill of the complainant; this court will proceed to hear the cause on the part of the complainant, and to decree on the matter of the said bill.

Washington, Feb. 12, 1831.

I, Richard Peters, reporter of the decisions of the Supreme Court of the United States, do hereby certify, that the foregoing is a true copy of the order and opinion of said Supreme Court, delivered in the above cause by Mr. Chief Justice Marshall, at January term eighteen hundred and thirty-one.

RICH'D PETERS.

(D.)

Bill introduced by Mr. Dickerson of New-Jersey, Jan. 10th 1822.

A BILL prescribing the mode of commencing, prosecuting and deciding controversies between states.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in all cases where any matter of controversy now exists, or hereafter may exist, between states in relation to jurisdiction, territory or boundaries, or any other matter which may be the proper subject of judicial decision, it shall be lawful for the state deeming itself aggrieved, to institute against the state of which it complains a suit, or suits, in the supreme court of the United States, by bill, in the nature of a bill in equity, stating all the facts, and exhibiting and referring to all papers and documents deemed necessary to substantiate the complaint.

§ 2. *And be it further enacted, That all suits by one state against another state, shall be brought, prosecuted and defended, in the le-*

gal and proper names of such states respectively; and all process and proceedings shall be sued out and entered accordingly.

§ 3. *And be it further enacted*, That no suit shall be commenced or prosecuted in the name of any state, as complainant, under the authority of this act, without the order or direction of the legislature of the state suing; a copy of which, legally certified, shall be filed with the bill in the clerk's office of the supreme court of the United States, at the time of the commencement of the suit; and it shall, moreover, be the duty of the legislature of every complaining state to provide for, and cause to be appointed, some fit person or persons to manage the prosecution of such suit, and the document or documents by which such appointment is made, of a copy or copies thereof, legally certified, shall accompany the bill of complaint.

§ 4. *And be it further enacted*, That the state made defendant by any suit under the provisions of this act, shall be notified thereof by the delivery of a copy of the bill of complaint, and all documents therein referred to, legally certified by the clerk of the supreme court, to the governor, or chief executive officer of the defendant state, by the marshal thereof; and there shall, moreover, be issued by the said clerk, a written notification, stating when and where the said defendant state shall enter, in legal manner, appearance to the suit, and answer the bill of complaint; a copy of which, in like manner, shall be served on the legislature of any defendant state, by the marshal, at the time of serving the copy of the bill and documents above mentioned. And it shall be the duty of the marshal to make due return of the service of such bill, documents and notification, to the clerk of the supreme court, before the day specified for appearance, stating when and where such service was performed.

§ 5. *And be it further enacted*, That no act or proceeding on the part of any defending state shall be permitted, but by some person or persons legally authorised by the legislature thereof, as manager or managers; and not by such person or persons, until the instrument or document, or instruments or documents, vesting such power, legally certified, is or are filed in the clerk's office of the supreme court.

§ 6. *And be it further enacted*, That the state made defendant in any suit, under the provisions of this act, may, by any answer or answers, as the case may be, state such matters of fact and law, and exhibit such documents as may be deemed necessary in defence; which said answer or answers shall be filed with the clerk of the supreme court, within one year after notification of suit, in the manner hereinafter directed: *Provided, however*, That the court may, for substantial cause shown, reasonably enlarge the time for filing such answer or answers.

§ 7. *And be it further enacted*, That the persons appointed to prosecute and defend any suit brought under the provisions of this act, shall be considered, to all intents and purposes, as representing the states respectively; and all and every of their acts of record, in relation to the prosecution or defence of such suit, shall be deemed and held as valid and effectual as similar acts between individual

and individual ; and all notices of the time and place of taking depositions, and of any act or thing necessary to be done or executed in the country, shall be considered and taken to be well served or executed on either side, by delivering to the adverse agent or manager a written notification, as in the case of suits between individual and individual.

§ 8. *And be it further enacted*, That for the purposes of ascertaining boundary lines, objects referred to, and for any other purpose necessary to be done and executed in the country, in relation to any suit brought under the provisions of this act, it shall be lawful for the court to appoint one or more fit persons as commissioners, by order of record, whose duty it shall be, under the pains and penalties consequent upon contempts, to do and perform such act or acts, in the time and manner prescribed in the court's said order, first making oath, before some officer legally authorised to administer oaths, that such commissioners, respectively, will faithfully and impartially execute the duties specified in such order.

§ 9. *And be it further enacted*, That the same rules and principles, which are established by law, equity and practice, in the supreme and circuit courts, in relation to suits by individuals against individuals, shall govern the said court and the parties to any suit or suits, commenced under this act, as to amendments and proceedings, not herein mentioned, and as to the manner of taking depositions, the competency, admissibility, and relevancy, or right of testimony.

§ 10. *And be it further enacted*, That one year after the defendant state shall have filed the answer or answers herein directed, the court may proceed to hear and determine the matter in controversy between such states : *Provided*, Notice of record of such hearing has been previously entered by one of the parties ; and no hearing shall be had after answer or answers filed, without such notice : *And provided also*, That the court, for good cause shown, may enlarge the time for such hearing.

§ 11. *And be it further enacted*, That in case the answer of any defendant state shall not be filed within the time limited by this act, and no cause is shewn to the court why such failure has happened, the court, on motion, shall award against the manager or managers of the defence, if any there be, and in case there is none, against the legislature of such state, a rule to shew cause why the court should not proceed to take and consider the bill as true, and decree accordingly ; which said rule shall be served on the manager or managers, or the legislature, as the nature of the case may require, by the marshal's delivering a sworn, or legally certified copy thereof ; and it shall be the duty of the marshal to make delivery thereof, and certify forthwith to the court, specially, the time and manner of such delivery.

§ 12. *And be it further enacted*, That at the term of the supreme court next after the return of the rule served, as herein before directed, the court may, unless good cause is shewn against such procedure, hear the bill of complaint, consider it as true, and pronounce such decree as may be consistent with the principles of law and equity.

§ 13. *And be it further enacted*, That upon hearing any matter of controversy between states, pursuant to the provisions of this act, the court shall decree to the party succeeding, all legal and reasonable costs of suit, to be ascertained in the manner hereinafter directed.

§ 14. *And be it further enacted*, That it shall be the duty of the supreme court to appoint one or more fit persons as commissioners to ascertain upon oath, and report specially to the court, the amount of all reasonable costs expended in the prosecution of any suit, under the provisions of this act, including as well pecuniary disbursements, as the service of officers ; which said sums the court may adjudge to be paid to the several parties or persons entitled, according to the nature of said report.

§ 15. *And be it further enacted*, That whenever any decree shall be pronounced in pursuance of the provisions of this act, it shall be the duty of the court to cause to be delivered to the governor, or chief executive officer of the state against which such decree is pronounced, a legally certified copy of the decree, with a request from the court, that the same may, in a reasonable time, be executed : to cause the same to be carried into complete effect, to make any order necessary and proper for that purpose, and to issue a mandate or warrant to any marshal or marshals of the United States, requiring him or them to execute such decree in the manner to be prescribed in said warrant or mandate, and to make return thereof as in other cases. And it shall be the duty of any such marshal or marshals, and he or they shall be, and they are hereby authorised, to carry said decree into execution accordingly, and to command and receive assistance, and use force if necessary. And for any services rendered by any such marshal or marshals, in the execution of any such decree, as well as for any other services that shall be by the court required of him or them, the said marshal or marshals shall receive a reasonable compensation, to be adjudged of and allowed by the court.

Bill introduced by Mr. ROBBINS, of Rhode-Island, Dec. 11, 1828.

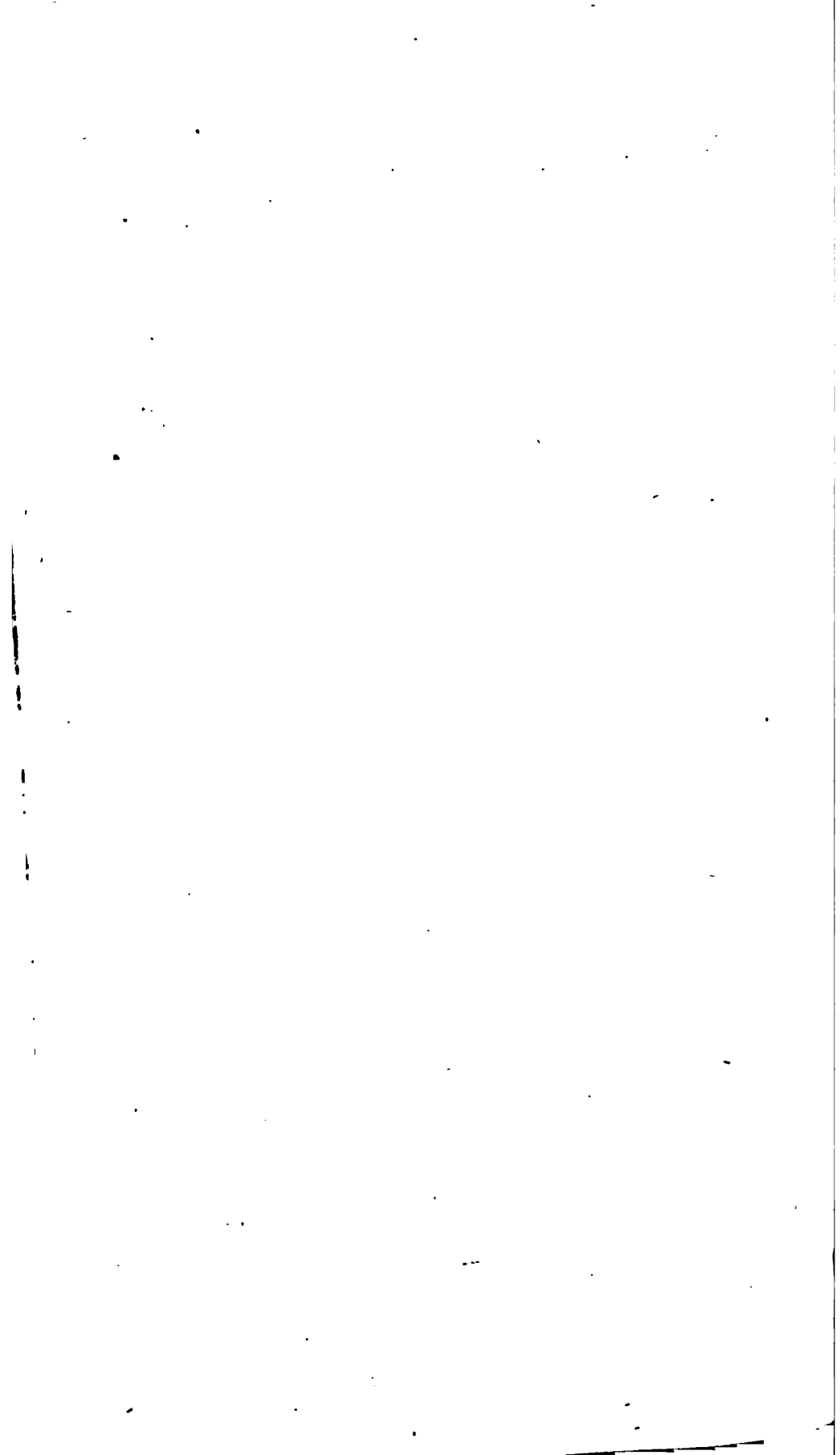
The title, and the first fourteen sections of this bill, corresponded with the title and first fourteen sections of the bill introduced by Mr. DICKERSON.

The 15th section was in the following words :

“ § 15. *And be it further enacted*, That whenever any decree shall be pronounced, in pursuance of the provisions of this act, it shall be the duty of the court to cause to be delivered to the governor, or chief executive officer of the state against which such decree is pronounced, a legally certified copy of the decree, with a request from the court, that the same may, in a reasonable time, be executed.”

A section was added in the following words :

“ § 16. *And be it further enacted*, That this act shall be in force from and after the passing thereof, for five years then next ensuing, and to the end of the current session of congress in which the said five years shall expire, and no longer.”



IN ASSEMBLY,

March 11, 1831.

REPORT

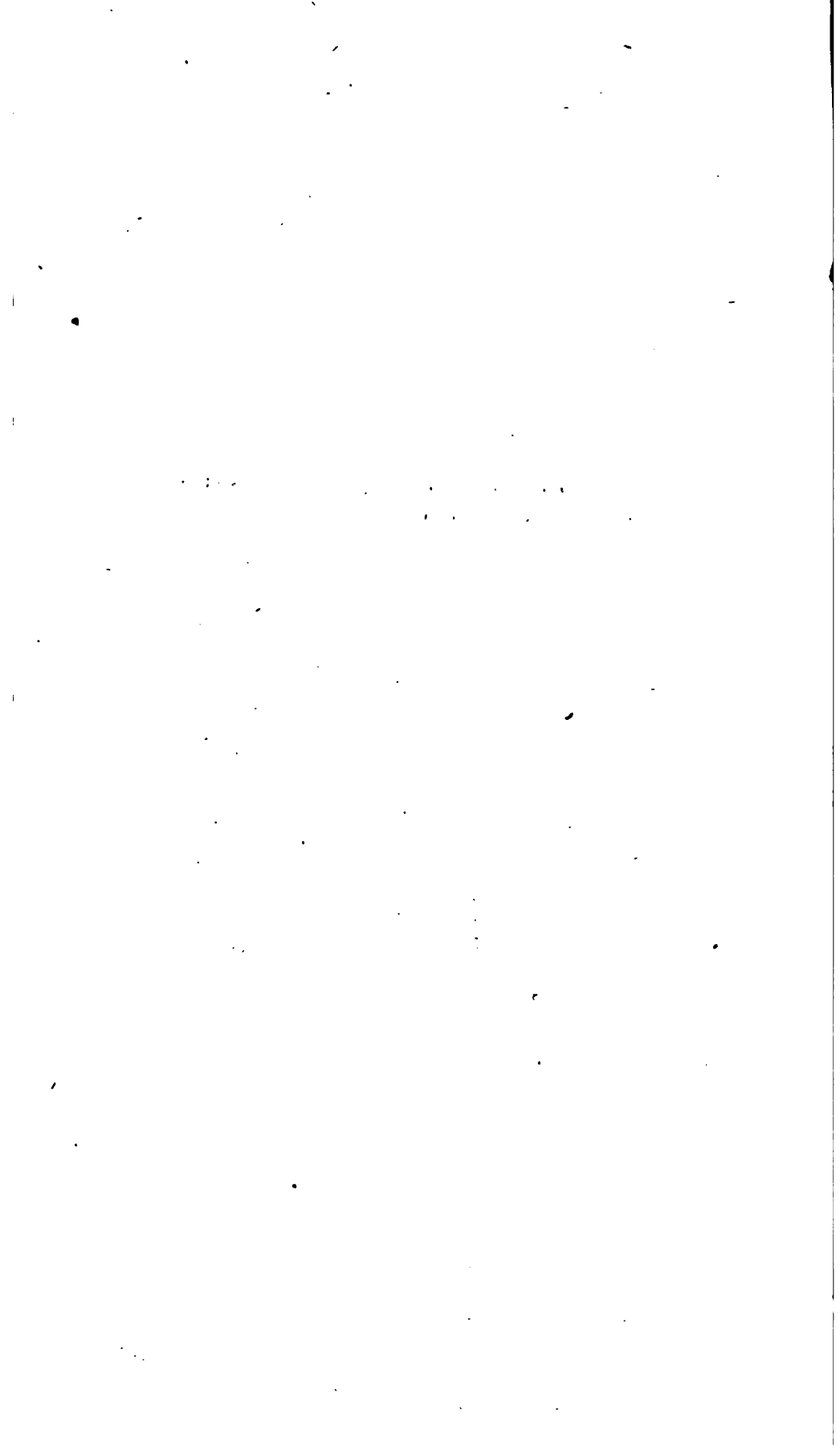
Of the committee on claims, on the petition of Pliny Jennings and David Barns.

The committee on claims, to which was referred the petition of Pliny Jennings and David Barns,

REPORTED :

There are presented to your committee, two affidavits, one of Samuel Starrow, and one of Moses Lent, establishing the fact that David Barns was enlisted as a private in Capt. Ransom's company, in Livingston's regiment, for during the war, and that he died in 1781. We also find his name in Neely's book, regularly entered as having enlisted in Ransom's company, Livingston's regiment, for during the war, and having been mustered in 1781.

This proof seems conclusive, and your committee have no other duty to perform than to report a bill to satisfy the claim of the heirs of the said David Barns. There is not sufficient evidence of the identity of his heirs, or their number, and it is therefore proposed to refer the applicants to the Commissioners of the Land-Office, to make the necessary proof on this point, in conformity to the principle already established by the Legislature.



IN ASSEMBLY,

March 12, 1831.

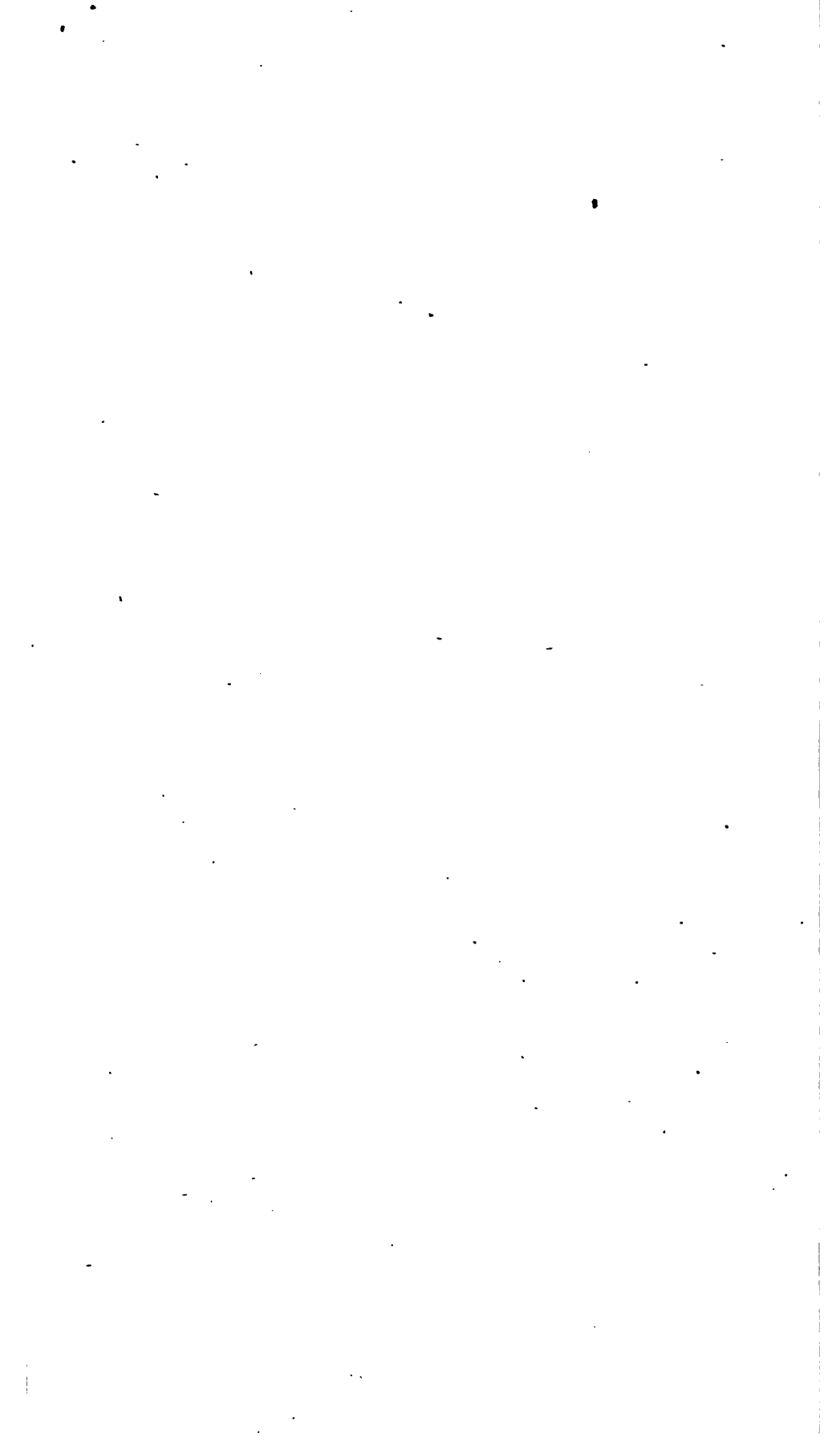
REPORT

Of the select committee, on the petition of the inhabitants of the town of Erie, in the county of Erie.

Mr. Fillmore, from the select committee, to whom was referred the petition of the inhabitants of the town of Erie, in the county of Erie,

REPORTED:

That they have had said petition under consideration, and the petitioners allege, that they suffer great inconvenience in the transaction of business through the post-office, inasmuch as there is a town and county of the same name, in the State of Pennsylvania, to which letters intended for persons residing in that town in this State, are frequently sent, to the great injury and detriment of the persons for whom they were intended. These mistakes, it seems, sometimes occur through the ignorance of the post-masters, and sometimes through the neglect of persons directing their letters, in omitting to mention the name of the State. The mistakes, however, are so frequent, and the remedy so easy, that your committee have come to the conclusion, that the prayer of the petitioners to change the name of said town, is reasonable and ought to be granted; and they have, therefore, directed their chairman to ask leave to introduce a bill accordingly.



IN ASSEMBLY,

March 14, 1831.

REPORT

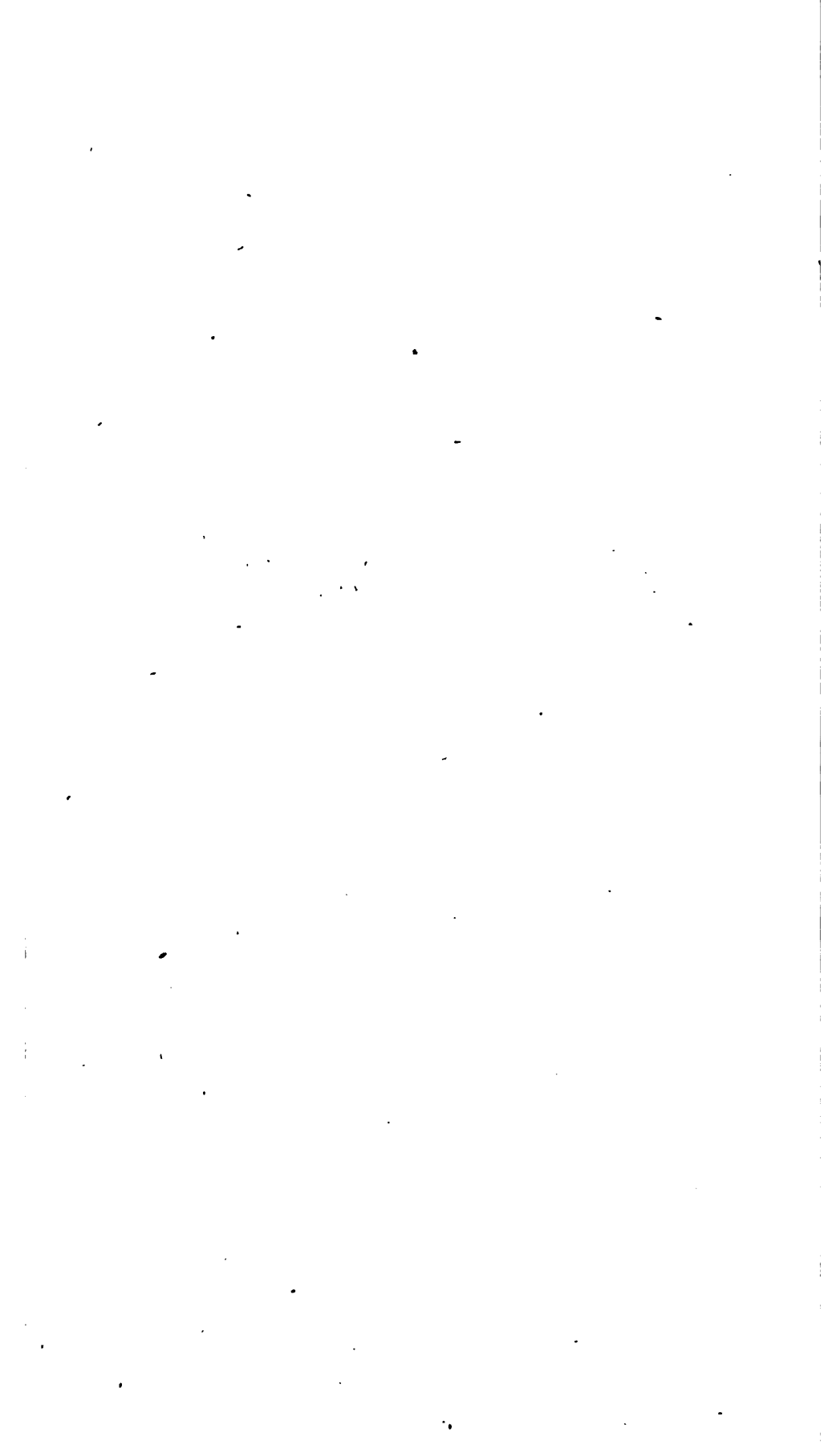
Of the select committee, on the petition of the members of the court of common pleas in the county of Onondaga, for an additional term of said court.

Mr. Bigelow, from the select committee to whom was referred the petition of the members of the court of common pleas of the county of Onondaga, praying an additional term of said court,

REPORTED—

That the committee have had the subject matter under consideration, and have ascertained that great evils do exist on account of there being but three terms of said court in a year; that county now contains a population of about fifty-nine thousand; that for the last year that court has been held over two weeks in each term to transact the necessary business; that in the opinion of your committee it is far more inconvenient and expensive for those obliged to attend, to have to attend two weeks in succession, than to have an extra term added. They are therefore clearly satisfied that the prayer of the petitioners is reasonable, and ought to be granted.

The committee have therefore prepared a bill, and directed their chairman to ask leave to introduce the same.



IN ASSEMBLY,

March 14, 1831.

REPORT

Of the committee on the judiciary, on the petition of Samuel Cocket and others.

Mr. Robinson, from the committee on the judiciary, to which was referred the petition of Samuel Cocket and others, of the county of Otsego,

REPORTED—

That the following appear to be the facts in the case : The petitioner, Samuel Cocket, was convicted of perjury at a court of general sessions of the county of Otsego, in June 1825 : At the time of the conviction he was of the age of 19 years and some months ; that on his trial, the testimony was very contradictory, eight or ten witnesses swearing positively on one side, to the material facts in the case, and nearly an equal number on the other side, swearing positively in contradiction : That the perjury was alleged to have been committed on a trial in which the father of the said Samuel Cocket was one of the parties : That immediately after the conviction of the petitioner, he was pardoned by the Governor of the State, upon a strong probability that his conviction was erroneous ; and that since his conviction, the conduct of the petitioner, as a man and citizen, has been irreproachable. The petitioners, sundry inhabitants of the said county of Otsego, and the said Samuel Cocket, ask the Legislature to pass a law restoring the said Samuel Cocket to his competency as a witness.

Your committee are of opinion that the prayer of the petition ought to be granted, for the following reasons :

1st. The youth of the said Samuel Cocket at the time of the alleged commission of the offence, which was in 1834, and the relation in which he stood to the party calling him as a witness :

2d. The strong probability that the conviction was erroneous :

3d. His subsequent good conduct.

A bill has accordingly been prepared, and leave is now asked to introduce the same.

No. 275.

IN ASSEMBLY,

March 15, 1831.

REPORT

**Of the Commissary-General, on the memorial of the
corporation of New-York.**

STATE OF NEW-YORK, }
Commissary-General's Office. }
New-York, March 8, 1831.

The Hon. GEORGE R. DAVIS,
Speaker of the Assembly.

SIR—

I have the honor to enclose to you herewith, a report on
the memorial of the corporation of the city of New-York, and re-
ferred to this department by the Honorable the Assembly, on the
4th instant.

Very respectfully, I am,
Your obedient servant,

ALEXANDER M. MUIR,
Commissary-General.

REPORT.

The Commissary-General, to whom was referred the memorial of the corporation of the city of New-York, praying for a release from the State, of a part of the Arsenal ground in the sixth ward of the said city, for the purpose of granting the same to the New-York Lying-in Hospital,

RESPECTFULLY REPORTS :

That the lot of ground applied for, is adjoining the one released to the said corporation, and by them given to the trustees of the New-York city dispensary, and at present is but partially occupied for military purposes ; it being in contemplation to erect gun sheds on it, in the room of those which were taken down when the dispensary building was erected, and which are intended for the storage of the field ordnance assigned to the use of the first regiment of horse artillery, which at present have no gun sheds for the safe keeping of their field pieces. The said lot, therefore, cannot, without public inconvenience, be dispensed with.

The object of the memorialists being of so benevolent a character, and of general concern, it is with reluctance that the Commissary-General finds it necessary to say any thing against so benevolent and praise worthy an application. He is almost persuaded to say that the application ought to be granted ; but inasmuch as the corporation of New-York have the fee of an entire block of ground, south and immediately adjoining the Arsenal ground, from which they could spare a lot of ground without half the inconvenience which the granting of the present application would occasion. He is, therefore, constrained to report as his opinion, that it is inexpedient to grant the prayer of the memorialists.

Respectfully submitted.

ALEXANDER M. MUIR,
Commissary-General.

*S. N. Y. Commissary-Gen. Office,
March 8th, 1831.*

IN ASSEMBLY,

March 16, 1831.

REPORT

Of the committee on the erection and division of towns and counties, on the petition of sundry inhabitants of the counties of Steuben, Tioga and Tompkins, for the erection of a new county.

The committee on the erection and division of towns and counties, to whom was referred the petition of sundry freeholders and inhabitants of the counties of Steuben, Tioga and Tompkins, praying for the erection of a new county from parts of said counties,

RESPECTFULLY REPORT :

That the petitioners ask for the erection of a new county, with a population of about thirteen thousand five hundred, including a territory of about eighteen or twenty miles square, contiguous to the head of the Seneca lake, viz :

The town of Hector in the county of Tompkins, the town of Reading, Tyrone, and parts of the towns of Jersey and Hornby, from the county of Steuben, and the towns of Catlin, Veteran and Catharines, from the county of Tioga.

The county of Tompkins includes at present a territory of about five hundred square miles, with a population in 1825 of 32,908 inhabitants. The town of Hector, which is included in the territory asked for by the petitioners, is bounded on the east shore of the Seneca lake, and includes a territory of ten miles square, with a population in 1825 of 4,957 inhabitants. This would leave the county of Tompkins in nearly a square form, with a population of 27,957. The inhabitants of this town would be materially accommodated in case a new county should be erected, as asked for ; as

their business and trade in principally done at and near the head of Seneca lake.

The county of Steuben at present includes a territory of about thirty-six miles square, in nearly a square form, with a population in 1825 of 25,004 inhabitants. The territory asked for, are the towns of Reading, Tyrone, and a part of the towns of Jersey and Hornby. The town of Reading is bounded on the west shore of Seneca lake, and in 1825 contained a population of 1,289. The town of Tyrone, and a part of the towns of Jersey and Hornby are comprised in townships number 3, 4 and 5, in the first range, and the gore immediately east of the said townships are the east bounds of the county of Steuben. The whole territory to be taken from the county of Steuben, as prayed for by the petitioners, would be about 140 square miles, or about eighteen miles by eight, with a population of 4,842 in 1825; which would leave Steuben a territory of about 1,050 square miles, with a population of about 22,000 inhabitants.

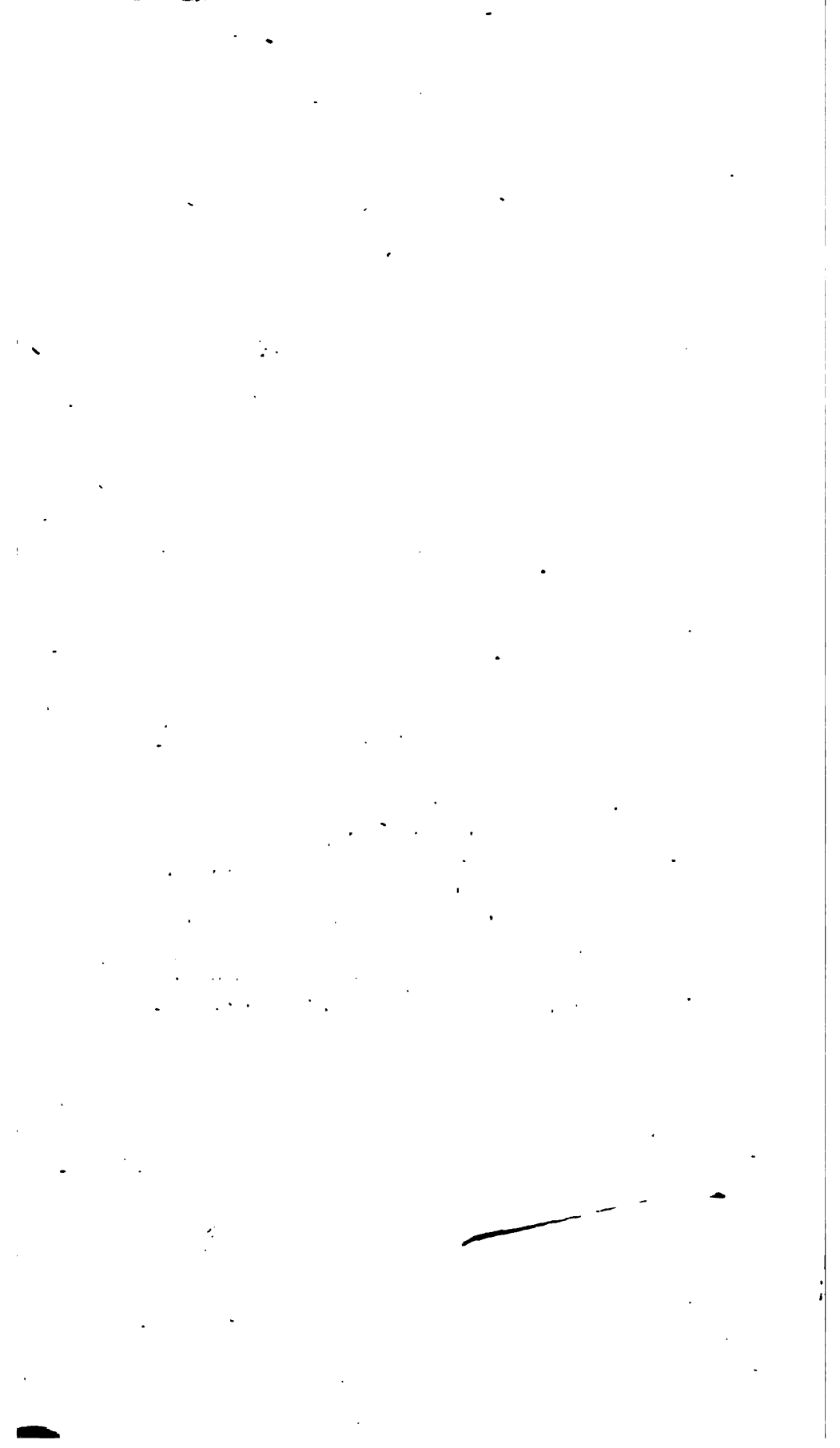
The county of Tioga at present includes a territory of about twenty-two miles by thirty-six, or nearly 800 square miles, with a population in 1825 of 19,951 inhabitants. This county has at present two half-shire towns—one at Elmira, on the Chemung river, and the other at Owego, on the Susquehannah river. The territory asked from this county, are the towns of Catlin, Catharines and Veteran, comprising a territory of about twelve miles square, with a population in 1825 of 3,787, which would leave Tioga a population of 16,164, with a territory of 650 square miles. The half-shire at Elmira would be somewhat affected by the erection of the new county, as it would lessen the western jury districts, and would be within eight or nine miles of Elmira, where the court-house and jail now stands. The committee consider this as the strongest objection to the erection of said new county, yet a majority of the committee have no doubt that three-fourths of the inhabitants who reside within the bounds of the contemplated new county, would be materially accommodated, as the distance is nearly the same, and the trade from this section of country is towards the head waters of the Seneca lake, which is navigable at all seasons of the year.

Your committee find that the counties the proposed territory is taken from are large counties. Two of them formed, when there was a sparse population in that part of the State; and the present places for holding courts of justice appear to have been adopted

without much regard to the growth and improvement of the extreme parts of the counties, which it is proposed to erect into a new county; that the present county seats have little or no connection with the business of the inhabitants of the territory proposed to be erected into a new county; that as population increases and improvements take place, the natural and geographical centres discover themselves, which in this case indicates itself, as nearly the whole of the business of these towns is done in the valley at and near the head of the Seneca lake, and will continue to be done there. A majority of your committee are of opinion that a new county will be formed, having its county seat in the valley at or near the head of the Seneca lake, as they have been assured is anticipated by most of the inhabitants of the counties from which the proposed territory is taken, as there have been meetings and advertisements in the public papers of an application to this effect for three years preceding, as also this year; and few or no remonstrances have been presented.

At present, many of the inhabitants of the proposed territory have to go from twenty to thirty miles to attend court; withal, the population of this district of country is increasing rapidly, and has received a great impetus from the facilities about being afforded by the Chemung canal, which will connect the waters of the Susquehannah with the Seneca lake, which lake is navigable all the year;—art as well as nature pointing to the head waters of this lake as the geographical centre for a new county.

The foregoing considerations have induced a majority of your committee to recommend, at this time, the erection of a new county from parts of Steuben, Tioga and Tompkins, as the representation will not be altered until 1835, when your committee feel assured the increase of population will give to them their present number of representatives. They therefore ask leave to introduce a bill for the formation of a new county, as prayed for by the petitioners.



IN ASSEMBLY,

March 18, 1831.

REPORT

Of the committee on trade and manufactures, on the petition of mechanics and others, of the city of New-York.

Mr. Bogert, from the committee on trade and manufactures, to which was referred the petition of mechanics and others, of the city of New-York, praying that some mode may be devised, by which mechanics may be relieved from the evils which they now sustain in consequence of the employment of the convicts imprisoned in the state prisons of this State in mechanical employments,

REPORTED—

The petition referred to the committee on trade and manufactures, is signed by a very large number of the mechanics of the city of New-York, as well as many other citizens of that city, of the highest respectability. It is therefore entitled to serious consideration; and that consideration the committee have bestowed upon it, so far as time, and their other avocations, have permitted.

The principal evils alluded to in the petition, relate to the prison at Sing-Sing. That prison was located at that place, because it was supposed that the employment of the prisoners in the quarrying and dressing of marble (of which there is a large quantity in the immediate vicinity) would interfere in a less degree, with ordinary mechanical business than by employing them in any other way.

It seems, from statements made to the committee, by two gentlemen from the city of New-York, who now are, or have heretofore

been engaged in the stone-cutting business in that city, that the agent of the state prison at Sing-Sing, has contracted to furnish marble at a very low price. In one instance, that of the Museum in New-York, owned by Mr. Olmstead, it is alleged that the marble for the entire front, was furnished for the sum of five hundred dollars; and that it would have cost, if furnished by a regular stone-cutter, from seven to eight thousand dollars. It is also asserted, that a contract has been entered into for supplying the marble for nine buildings, in the city of New-York, for the sum of twenty-one thousand dollars; while an eminent firm in the business, would not undertake to do it short of between eight and nine thousand dollars for a single house.

The committee have not deemed it necessary to go into a very minute investigation of this part of the subject. The late period of the session does not allow sufficient time to enter so fully as might be desirable into it. If, however, the statements made to them are true, they have no hesitation in saying, that not only are the mechanics engaged in this particular branch, liable to a destruction of their business, and their means of livelihood; but that the State has in fact gained nothing towards the maintenance of the convicts, nor is likely to gain any thing, by employing them in the getting out and preparing of marble.

It is proper to state here, that it has been urged as a reason for furnishing this material at so low a rate, that it could in no other way be brought into repute as a substantial and elegant article for building, especially as it has met the strenuous opposition of the owners of private quarries, and of the stone-cutters and builders generally. These considerations are undoubtedly entitled to some weight.

It is due to the present agent to state, that the low contracts referred to were made before he had the management of the prison; and the committee understand from him that the contracts which he has made are at prices but little lower than those charged by the New-York mechanics.

The committee do not understand that any other branch of business has as yet been materially injured by the employment of the convicts at Mount-Pleasant, except that of the workers in iron. It is stated that some articles, as for instance, iron doors and shutters, have

been procured from the prison at a considerable less price than they could be afforded by the regular mechanic ; and in some instances, for less than the original cost of the iron itself. Whether these statements are entirely correct, the committee have no present means of determining.

In the Auburn prison, a great variety of mechanical and manufacturing branches are carried on, and, your committee have no doubt, to the serious injury of some of our worthy and industrious mechanics. That institution has, however, been able to defray its current expenses from the avails of the labor of the convicts within its walls, without calling upon the Legislature for further appropriations. Whether the prison at Mount-Pleasant will be able, upon its completion, to do the same, your committee cannot predict. They incline, however, to the opinion, that some other mode of employment than the quarrying and dressing of marble, at the prices which it has heretofore been furnished, will have to be introduced before such a result can be expected.

The question as to the management of the concerns of the prison at Mount-Pleasant, the making of contracts for the delivery of marble, or the general regulation of prices for iron or any other work executed there, cannot be passed upon by the committee at this time, nor indeed by any other committee of the House, during the present session, with that full information which, if worthy of examination, it should receive. Did time allow, perhaps some mode of employment might be devised, or some system of management suggested, which would give the relief which the petitioners ask for. At present, nothing short of a total abandonment of our existing prison system presents itself to the minds of the committee, as a remedy for the evils complained of. Whether the Legislature is willing to adopt the alternative of maintaining state prisons at the general expense, instead of compelling them to labor for their own subsistence, is a question for its consideration.

The committee, with a view of eliciting information, and procuring facts and opinions in relation to this interesting subject, which may be made the basis of future legislation, and point to remedies for the existing evils, recommend the adoption of the following resolution :

Resolved, (if the Senate concur,) that a joint committee, consisting of two members of the Senate and three of the Assembly, be

appointed to visit the state prisons at Auburn and Mount-Pleasant, during the recess of the Legislature, who shall examine into the concerns of said prisons, and report to the next Legislature what alterations, if any, are proper to be made in relation to the discipline and management of said prisons.

DOCUMENTS

OF THE

ASSEMBLY

OF THE

STATE OF NEW-YORK,

FIFTY-FOURTH SESSION,

1831.

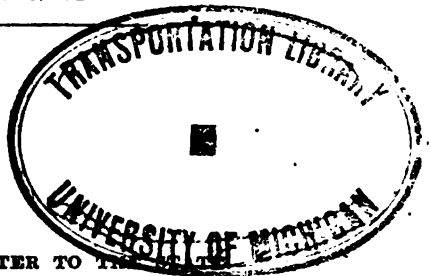
VOLUME IV.

FROM No. 290 TO 362, INCLUSIVE.

ALBANY:

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1831.





*New Lib.
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Transportation Lib.
5-18-1929*

No. 281.

IN ASSEMBLY,

March 18, 1831.

MESSAGE

**From the Governor, transmitting certain Resolutions
of the Legislature of Massachusetts.**

EXECUTIVE DEPARTMENT, }
March 17, 1831. }

TO THE ASSEMBLY.

GENTLEMEN,

I send you herewith, certain Resolutions of the Legislature of the State of Massachusetts, which I am requested by the Executive of that State to lay before you.

E. T. THROOP.

[A. No. 281.]

1

Resolutions accompanying the Governor's Message.

COMMONWEALTH OF MASSACHUSETTS.

EXECUTIVE DEPARTMENT, }
March 9, 1831. }

SIR—In compliance with the request of the Legislature, I herewith transmit certain Resolves passed at the present Session, in relation to a more perfect organization of the Militia, under the authority of the United States, with a respectful request that they may be laid before the Legislature of the State over which you preside.

I have the honor, Sir, to be, respectfully,

Your obedient servant,

LEVI LINCOLN,
Governor of Massachusetts.

His Excellency the Governor of New-York.

COMMONWEALTH OF MASSACHUSETTS.

Resolved, by the Senate and House of Representatives, that the Senators of this Commonwealth, in the Congress of the United States, be instructed, and the Representatives requested, to use their exertions to procure the passage of a law, for the more perfect organization of the Militia of the several States.

Resolved, that His Excellency the Governor be requested to transmit copies of these Resolutions to the Senators and Representatives of this Commonwealth, in Congress, and also to the Governors of the other States, in order that the same may be submitted to the Legislatures thereof, for their consideration.

IN SENATE, March 4, 1831.

Read twice and passed.

Sent down for concurrence.

SAML. LATHROP, *President*.

IN HOUSE OF REPRESENTATIVES, March 7, 1831.

Read twice and passed in concurrence.

W. B. CALHOUN, *Speaker*.

March 8, 1831.

Approved,

LEVI LINCOLN.

A true copy—ATTEST,

EDWARD BANGS, *Sec'y of the Commonwealth*.

IN ASSEMBLY,

March 21, 1831.

MEMORIAL

Of John J. Vander Kemp and Robert Troup, general agents, etc.

To the Honorable the Legislature of the State of New-York.

The memorial of John J. Vander Kemp, General Agent of the Holland Land Company, and also of Wilhem and Jan Willink of Amsterdam, and of Robert Troup, General Agent of the Pulteney Estate,

RESPECTFULLY SHEWETH :

That the bill now before the Assembly, for the taxation of land contracts and securities for the purchase monies of land belonging to persons not resident within the State, appearing to your memorialists to be objectionable in principle, and very oppressive in its application to the estates which they represent; and apprehending, moreover, that if enacted into a law, it will, in its operation, prove highly injurious to the great body of settlers in the western counties, your memorialists most respectfully submit to the Legislature a brief statement of their views in relation to this new and important feature in our system of taxation.

Moveable property attaches itself to the person of the owner: However dispersed, it constitutes one collective fund, by the amount of which, a man's capacity to contribute towards the public exigencies of the government under which he lives, is ordinarily measured, and of which, at his death, the distribution is regulated alone by the laws of the country of his domicile.

Hence in most, if not in all nations, taxes on personal estate are collected in the country where the owner resides, and are made to
[A. No. 282.]

reach the whole of his means, whether at home or abroad. Such is the principle adopted in our own State, in relation as well to citizens as to resident foreigners possessing capital out of the State; and if, as in the case of stocks in incorporated companies, instances are to be found in which the personal property of non-residents is subjected to taxation, these constitute exceptions to the general rule, and rest on their own peculiar circumstances.

As in the application of this general principle, non-residents possessing credits within this State, are liable to taxation upon the value of such credits, at the places of their domicile, the effect of the proposed law must be to subject them, at one time, to taxation at two places, on the same property.

But if the debts due to non-residents be a just object of taxation, it is conceived that the tax now proposed is objectionable on the ground of its partial and unequal operation.

Whilst the inhabitants of this State are liable to assessment only upon the surplus of their personal property, after deducting their just debts, this great safeguard against oppression is, by the provisions of the bill under your consideration, denied to non-residents.

The proceeds of a portion of the Pulteney estate, under a decree of the English court of chancery, are now in a course of application to the payment of debts to a very large amount.

By the revolutions and protracted wars to which the Dutch nation has of late years been exposed, her citizens have also been subjected to great vicissitudes and calamities; and the losses, from these causes, by the members of the Holland Land Company, have been greatly aggravated by the purchase of American lands: So that it may be truly said of the individuals interested in both estates, that, if made liable to taxation for their personal property in this country, they will greatly need the benefit of that protecting principle of our system, by which the tax is made to operate only on the excess of that property beyond the amount of debts due from the proprietors of it.

And here your memorialists take leave further most respectfully to suggest, that the claim of their constituents to the benefit of this principle, is conceived to rest also upon the public faith of the State of New-York.

The Legislature, in the exercise of its sovereign power, had an undoubted right to deny to aliens the privilege of purchasing and holding lands within this State; but the privilege, when granted, carried with it the same rights in regard to the enjoyment of the lands, as are possessed by our own citizens, except as these rights were qualified and restrained by the terms of the grant.

The provisions of the act enabling aliens to purchase and hold lands within this state, go to prohibit the reservation of rents, and to prescribe a certain time and place for the recording of conveyances; but these are its only conditions. In all other particulars, the alien land holders were placed on the footing of our own citizens, and upon this the plain and obvious construction of the act, both the Dutch and the English proprietors entered on the system of selling out their lands upon credit, and in small parcels.

In the prosecution of this system, a large amount of debts has been created, growing out of the necessities of the settlers and the considerate indulgence of the foreign proprietors. If the securities for these debts be subjected to taxation to the whole extent of their value, without reference to the pecuniary circumstances of the owners, whilst the resident proprietor, who in the protection of his person as well as of his property enjoys much higher benefits, is enabled to hold the like securities upon terms less burdensome and oppressive, it is manifest that a marked and most important line of distinction will be established between the two classes of land holders.

But again; this striking inequality in the proposed tax, as between the resident and the non-resident land holders, equally characterises it in its operation upon different classes of non-resident creditors.

Credits arising from loans of money, sales of goods, or other sources, and secured by bonds and mortgages given by citizens of this State to non-residents, are not by the bill under consideration, subjected to any tax whatever, although they require and receive the same protection from our laws as debts arising from the sale of lands.

Your memorialists are not aware that any particular odium can be justly attached to the sale of lands on credit, or that such sales are productive of any public mischief, yet on no other ground can they perceive any possible reason for taxing the one, and not the other, of these two classes of debts.

But, were the bill free from the objectionable features above referred to, your memorialists would most respectfully submit, that there are various considerations connected with the hardship of the projected tax, which deserve the serious consideration of the legislature.

The loans made by capitalists in Holland, to aid the United States during the revolutionary war, being reimbursed soon after the organization of the Federal government under its present constitution, and in consequence of the troubles then commencing in Europe, the pursuits of commerce offering no encouragement for the employment of these funds, the Dutch merchants, under the influence of their early attachment to this then infant Republic, determined to invest them in American lands. The tract of country now called the Holland purchase, was bought in 1792 and 1793, but the Indian title was not extinguished till the year 1797; soon after which the whole tract was explored and carefully surveyed into small parcels. The settlement of it was commenced in the year 1800, upon the system of selling on long credits to actual settlers; a system which, whilst calculated to postpone for a long time the reimbursement of the capital employed in it, was supposed to be well adapted to the then circumstances of this country. The English estate was opened for sale upon the same plan, but at an earlier period of time.

The actual expenditures of the Holland Company upon their Genesee lands, including interest, amounted in the year 1800 to 4,392,000 dollars.

Those of the English proprietors, upon the Pulteney estate, in the year 1801, when the title was transferred to Sir William Pulteney, including interest, to about 2,000,000 dollars.

To encourage and facilitate collections, it has for many years past been the practice of both Agencies to receive cattle and produce, in payment of debts, at prices much beyond those current in the market; nevertheless the whole average annual nett receipts for principal and interest, during the last 30 years, have amounted, in regard to the Dutch estate, to less than two per cent; and in regard to the English estate, to less than three per cent per annum on their respective expenditures above specified; but a large proportion of these receipts were on account of capital; the amounts annually received for interest being far less than those above stated. The balance of the whole ex-

penditures on both estates, including simple interest, computed in one case from the year 1800, and in the other from the year 1801, amount in each case, after deducting all remittances, to a sum more than double the price at which the estates could now be converted into money.

In the mean time, the settlements have advanced with a steady and uniform step, and an immense region, then covered with forests, is now occupied by a large and flourishing population.

Whilst individual prosperity and the power and resources of the state have been thus in a regular course of advancement, no corresponding advantage has resulted to the foreign land holders.—There is an account only of deep and irreparable losses.

These losses have been increased by their liberality and forbearance towards the settlers.

Several years since, the Holland Land Company entered upon a general system of reduction in their land debts, by which the amounts were to be regulated by the fair price of the land at that period, without regard to the improvements. In carrying into effect this system, upwards of eleven thousand contracts have been renewed and modified, and a large additional number remain to be renewed and modified upon the same principle. The whole amount of reductions resulting from the operation of this system, exceeds 700,000 dollars.

The agent of the Pulteney estate, has been also induced to offer very considerable reductions to the settlers in Steuben and Allegany counties, and to extend the credit on the debts thus reduced, so as to make them payable by easy instalments.

These facts, whilst they vindicate the two Agencies from all reproachful imputations, serve to show that the debts proposed to be made the object of taxation, are of a very peculiar character—that their final recovery is precarious—the period of it altogether uncertain—that the interest on these debts is not paid with any sort of punctuality, and, in fine, that they constitute an anomalous species of personal property, which, in relation to money or solid securities, has no fixed or definite value; in further proof of which your memorialists might refer to the conditions upon which a cession of the entire estates of the Holland Land Company, real and personal, was

offered to the Legislature some years since, and to more recent negotiations for the same object with private capitalists.

The same facts serve farther to illustrate the extreme difficulty of ascertaining the true value of these debts, as objects of a just and equitable system of taxation. It is notorious that in all new settlements, a large proportion of the land contracts are surrendered; that in many cases the lands are abandoned, and that in others, the conditions of the contracts are wholly unfulfilled by the settlers; whilst in these cases, the debts prove to be worthless and irrecoverable, the taxes on the land are for the most part left unpaid, and returned to the Comptroller's office, where the land holder is compelled to pay them to prevent a sale of the land.

The amount of taxes on sold lands, so returned and paid by the Agents of the Holland Land Company, have averaged, during the six years preceding 1828, more than \$6,000 per annum, and so far as under the like circumstances, the land holders may hereafter be subjected to taxation on debts represented by unexecuted contracts, it is obvious that they will be exposed to a double tax on the same identical property. Your memorialists do therefore most respectfully submit that if the debts due to these Agencies shall, notwithstanding the considerations above suggested, be considered as just objects of taxation, the tax ought to be applied to the nett receipts of the estates annually remitted to the proprietors, and not to the nominal amount of the securities.

Your memorialists entertain a confident belief that the practical operation of the projected tax will be injurious to the general interest of the state, by inducing land holders to require on sales a considerable proportion of the purchase money in advance, and thus to check the progress of new settlements.

Its necessary effects on settlers who have already purchased, must also be prejudicial, in as much as it will be made the interest of the land holders to abridge the system of credits, to enforce more rigorously the payment of outstanding purchase monies, to cancel and annul contracts which have become forfeited by failure of payments, or, where further time is granted for the payment of a debt, to make the future tax on it, as in equity it ought to be, a charge on the debtor, for whose accommodation the extension may be granted. It is evident that whatever, in these particulars, may be the changes in

the administration of Land Agencies, the inconveniencies must more or less fall on the settlers.

There is yet another consequence of this measure, which may be referred to, rather as a probable than a necessary one, the sale and assignment of these debts to residents, at such prices as can be obtained for them.

How far the settlers may be benefitted or injured by such transfers, it is not for your memorialists to conjecture; but they do not hesitate to avow their firm belief, that there has hitherto been no land agency within this State, conducted with a more sincere and uniform regard to the necessities and best interests of this numerous and meritorious class of citizens, or with more extensive losses and sacrifices on the part of the landholders, than the two agencies represented by your memorialists. The very large sums gratuitously expended by each, in the making of roads, in the erection of bridges, in the construction of court-houses and churches, and in promoting religious and academical instruction, attest the truth of this remark. The whole amount of the expenditures of the Holland Company for these objects and for taxes, and in agency charges, since the year 1800, exceeds the sum of 1,500,000 dollars. Their taxes alone, (augmented by valuations in some cases amounting to double the price which the agents would gladly accept for them,) have exceeded, upon an average of the last thirty years, 15,000 dollars per annum, drawn from a property entirely unproductive, and which, in progressive appreciation, can furnish no sort of equivalent for this continued drain. The expenditures of the Pulteney estate have been much in the same ratio. If to these heavy burdens be superadded a tax on the avails of the land, it will bear on both estates with a weight the most grievous and oppressive.

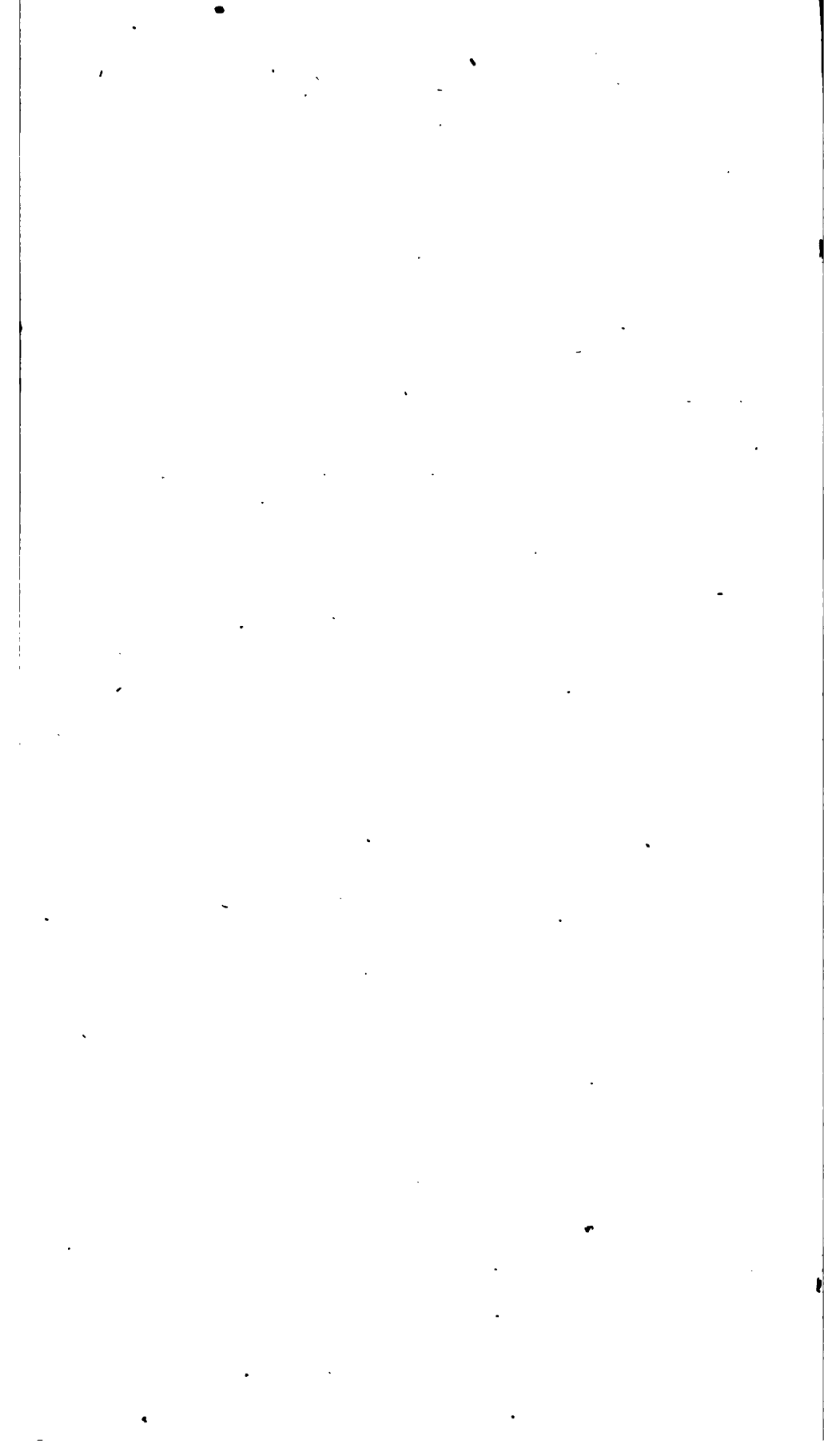
In conclusion, your memorialists, invoking a calm and cautious deliberation on this most important subject, confide the high and delicate interests involved in it, to the justice, the good faith, and the wisdom of the Legislature.

All which is respectfully submitted.

JOHN J. VANDER KEMP,
*General Agent of the Holland Land Company,
and of W. & J. Willink.*

ROBERT TROUP,
General Agent of the Pulteney Estate.

Albany, March 19, 1831.



IN ASSEMBLY,

March 25, 1831.

REPORT

Of the select committee, relative to granting mechanics security for labor and materials in the erection of buildings in the city of New-York.

Mr. Myers, from the select committee, consisting of the delegation attending this House from the city and county of New-York, to whom was referred the petition of sundry mechanics and others of said city, praying that a law may be passed, granting to them better security for labor bestowed and materials furnished in the erection, alteration and repairing buildings in said city,

RESPECTFULLY REPORTS :

That the mechanics and laborers in the city of New-York, comprise a large and respectable portion of its population ; who, by their skill and industry, have added much to the wealth, comfort and convenience of that city. No class of citizens are more entitled to legislative protection. Few persons, in passing through that city, and beholding the splendid edifices erected there, are aware that those who were employed in their erection have in many cases never received compensation for their services. This arises from the practice of sub-contracts being entered into by the person who first took the contract, with others to complete the engagement he himself had made. The owners, it is proper to remark, in most cases, pay the persons whom they employed, and the loss arises from the failure of the person with whom the owner made his contract or the sub-contractor. Persons who furnish materials, and those who bestow manual labor in the erection, usually suffer from a failure of the sub-contractors, and they are especially entitled to protection.

In examining this subject, the committee find embarrassments on every side. If a law should be passed granting an immediate and unlimited lien on the building to be erected, for every cask of lime or sand furnished, and for every day's work performed on the premises, it might either retard building, or what would be equally injurious, throw the whole of the contracts into the hands of a few very wealthy mechanics, to the exclusion of those of limited means, who might not be enabled to afford the security that would be required by the owner, that his property should not be encumbered by a failure on the part of the contractor to pay for materials or labor, that would be required in the erection of the buildings. And where sub-contracts should be entered into, the owners would be still more injured, as numerous liens in such a case might be created of which he could have no knowledge.

Under all the circumstances, the committee are of opinion that the lien should of right extend only to the property of him who took the contract, and who employed the men and purchased the materials ; and that a law, simple in its details, should be passed, granting a summary remedy to the mechanic and laborer for the security and collection of their demands.

The committee have prepared a bill which they believe will secure those objects, which they ask leave to introduce.

IN ASSEMBLY,

March 26, 1831.

REPORT

Of the committee on two-third Bills, on the bill entitled "An act for the further support of Common Schools in the city of New-York."

Mr. Fillmore, from the committee on two-third bills, to whom was referred the bill entitled "An act for the further support of common schools in the city of New-York,"

REPORTED :

That they have had said bill under consideration, and the first section thereof declares that "*the corporation of the city of New-York are hereby authorised, &c. to raise a tax upon the property in said city, liable to be assessed, &c.,*" which money is to be appropriated to the support of schools.

The only question that presents itself in determining whether the bill under consideration is a majority or two-third bill, is, does the bill authorise the *county* of New-York, by its constituted authorities as a county, to levy the tax, or is the authority conferred upon the *city* in its *corporate* capacity? It must be apparent, that if it is an authority conferred upon the city in its corporate capacity, it must enlarge their corporate powers; for if they now have the power to levy this tax as a corporation, then the law is perfectly inoperative and unnecessary; but if they have not that power, then this bill is intended to confer it, and so far adds to and *alters* their corporate powers.

By the Revised Statutes, (vol. 1, p. 364, art. 1,) and by universal usage in this State, the board of supervisors are regarded as the

constituted authorities for all county purposes ; and by the same, (page 368, § 17,) "the mayor, recorder and aldermen of the city and county of New-York, shall be the supervisors of the city and county of New-York."

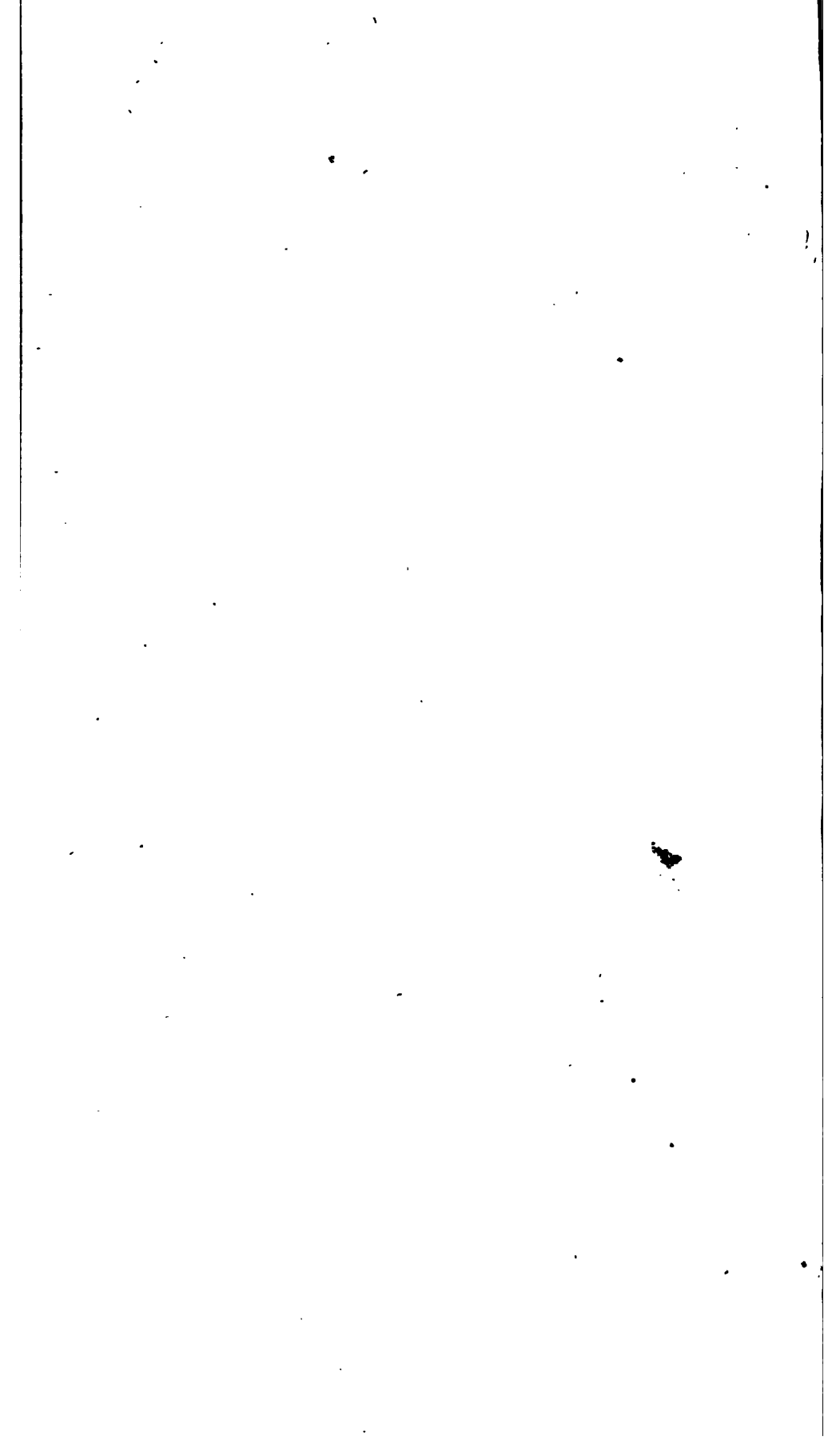
The corporation of the city of New-York, or in other words, the officers who represent the city in its corporate capacity, are the mayor, recorder, aldermen and *assistant* aldermen. This shews that the authorities who represent the city, are different from those who represent the county; and that an entire different body of men, to wit, the assistant aldermen are called in to act in city matters, who have nothing to do in relation to county affairs.

The city and county of New-York being co-extensive in territory, and necessarily in many instances blending their authorities as a city and as a county, and especially in the levying of taxes, the line of distinction between city and county authorities, appears not to have been kept very clearly in view in legislating upon the subject ; yet these authorities are perfectly distinct by the constitution and laws of the State, and the same community for certain purposes are regarded as a county, and for other purposes as an incorporated city. As a county they elect a sheriff, members of Assembly, &c., and as a city they elect aldermen and assistant aldermen, &c. As a city and county, they have certain officers who represent the county, and certain other officers who represent the city. It would seem to be more proper, as a uniform rule, that this tax for the support of schools, should be levied in the capacity of a county, and not of a city. But this is in no respect material as it regards the persons to be taxed, or the appropriation of the money to be raised. It is only material as it respects the convenience of doing business in the city and county, and as it regards the number of votes in the legislature to pass this bill : For your committee have no doubt that the legislature possess the power to authorise the levying of this tax either as a city or a county tax ; and it would seem from the phraseology of this bill, that there could be no reasonable doubt that the tax was to be levied by the corporation as a city. The words supervisors and county are not even mentioned. The corporation of the city are to levy the tax on property liable to be assessed in the city.

Your committee, under this view of the subject, can not doubt but this is a two-third bill ; yet they would state, that if the phraseology of the bill was altered so as to require the tax to be levied

upon the county, by the supervisors, they should deem it a majority bill : and they would beg leave to suggest the propriety of so altering the general law, as to declare that the board of supervisors should include the *assistant* aldermen, in order that the corporation and county might, in the levying of taxes for city and county purposes, be represented by the same body. Not that this would probably alter the constitutional majority that would be required to levy a city tax, but it would be a matter of convenience to the city and county authorities to be enabled as one body, at one and the same time, to audit the city and county charges, and levy a tax for their payment. Your committee are informed that this is now the *practice*, but by what authority they have been unable to determine. It is clearly not conferred by the Revised Statutes. The act for levying the annual tax of 1828, (Sess. p. 370,) confers the power of levying the tax upon the "mayor, recorder and aldermen of the city and county of New-York, as supervisors of the city and county of New-York." The same form of expression is made use of in the act for that purpose, passed in 1829, (Sess. p. 255,) and in that of 1830, (Sess. p. 162). There may however be objections to a general law of this kind, of which your committee are not aware ; as neither of them reside in the city of New-York, or profess to be acquainted with its police. They however suggest the idea for the consideration of those interested, and unanimously recommend the adoption of the following resolution.

Resolved, That the vote of two-thirds of the members elected to each branch of the Legislature, is requisite to pass the bill entitled "An act for the further support of common schools in the city of New-York."



No. 290.

IN ASSEMBLY,

March 28, 1831.

REPORT

Of the Comptroller on the petition of the Oldenbarneveld manufacturing company.

COMPTROLLER'S OFFICE,
Albany, 28th March, 1831. }

THE HON. GEORGE R. DAVIS,
Speaker of the Assembly.

SIR—

Herewith is transmitted a report made upon the petition of the proprietors of the Oldenbarneveld manufacturing company, referred to this office by the Honorable the Assembly, on the 21st instant.

I am, with great respect,

Your very obedient servant,

SILAS WRIGHT, JR.

REPORT.

STATE OF NEW-YORK, }
Comptroller's Office. }

The Comptroller, to whom has been referred, by the Honorable the Assembly, the petition of the members of the Oldenbarneveld manufacturing company, praying for relief in reference to a loan made by the State to that company,

RESPECTFULLY REPORTS :

That by an act of the Legislature of the 16th June, 1812, the Comptroller was directed to loan to the said company, by the name of "The Oldenbarneveld manufacturing society," the sum of five thousand dollars, at an annual interest of seven per cent, the principal payable in five years, and to take security by bond and mortgage, for the payment. Pursuant to that law, the security required was given, and the society, on the first day of August, 1812, received from the treasury of the State the sum of three thousand dollars, part of the loan directed to be made. In the following year further security was tendered, and, on the twentieth day of July, 1813, the remaining two thousand dollars was paid to the society, thus completing the loan directed to be made to them.

On the 13th April, 1820, the Legislature passed an act directing the Comptroller to credit the society with two-sevenths of the amount due for principal and interest upon the whole loan, including both the mortgages given, the one in 1812, and the other in 1813, as above mentioned, upon condition that the society should discharge the estates of two of its deceased members, David Spencer and Ephriam Willard, from the payment of any part of the debt. The same act directed the payment of the remaining five-sevenths of the loan, including both interest and principal, in yearly instalments of four hundred dollars, the first payment to be made one year after the passing of the act; and ordered a stay of all proceedings to collect the mortgages, upon the payment by the society, of the costs made.

Previous to the passage of the last mentioned act, no part of the principal of the loan had been paid, and the payments of interest had fallen far short of the amount which had accrued. Upon the first loan, the amount of interest due and unpaid on the 13th April, 1820, the day of the passage of the act, was \$997, and on the last loan it was \$652.28, making an arrear of interest upon the whole loan, at the time the two-sevenths were directed to be credited, of \$1,649.28. The two-sevenths were credited according to the direction of the act, and as of the date of its passage, and the amount thus credited in the whole, was \$1,899.78. This amount therefore was, by operation of that law, given from the loan as a gratuity.

Subsequently to the passage of the act of 1820, the payments upon both these mortgages have been made with considerable regularity, and nearly, if not entirely, according to the requirements of that act. The last payment made upon the first mortgage for \$3,000, which has been credited upon the books of this office, is of the date of the 19th June, 1830. This payment was in full of the interest due upon that mortgage to the date of the payment, and left a considerable balance to be applied to the principal, which reduced the amount of the principal remaining due and unpaid, to \$1,604.78. This is now the situation of that account, as shown by the books. The last payment upon the second mortgage of \$2,000, was entirely applied to principal, the interest having been satisfied by a payment upon the previous day. This payment was of the date of the 17th March, 1830, and reduced the amount of principal remaining unpaid upon that mortgage, on that day, to \$570.46. This is now the situation of that account. The accounts remaining in this situation, an application was made to this office some time during the last fall, for a division of the accounts, and a separation of the interests of the individuals concerned. This application was, at length, accompanied by the necessary surveys, maps and appraisements of the different parts of the mortgaged premises to be set to each of the parties, and with a mutual agreement as to the distribution of the payments which had been made between the different parties to the loans. A statement was made, as soon as the duties of the office would permit, showing the standing of the account of each individual when separated, and with such a distribution of the payments as was indicated by the agreement of the parties, except that in making their distribution, they had directed credits to interest and to principal, without reference to the interests of the State, and altogether different from the applications which had been in fact given to the

payments, at the time they were made, as shown by the receipts of the treasurer in their possession. This they had no doubt done because it would promote equity as between themselves, and probably without the reflection that the State would lose by the different application of the payments.

The difficulty grew out of the fact, that some of the parties had made payments much beyond their proportionate share, while others had fallen short of that limit, and one individual had made but one single payment, and that the last one made upon the account to which it was applied. The consequence of this neglect by one of the partners of the company was, that payments made by the others, instead of going to diminish that share of the principal which, as between the parties to the loan, they ought equitably to pay, were necessarily applied, so far as such application was required to pay the interest accruing against the defaulting partner. This resulted from the rule necessarily observed in this office of crediting to interest so much of any payment upon any account as will extinguish the interest then due, before any thing is passed to the credit of the principal. Were this rule not preserved, payments might be wholly applied to diminish the principal which is productive, while an accumulating amount of interest which produces nothing would remain unpaid.

In reference to these accounts, the inequity between the parties, which has grown out of this inequality of payments by the different individuals, has not been in any respect the fault of the State. The debts were joint, so far as the State was concerned, and the whole was not only chargeable upon all, but upon each of the debtors. The law of 1820, above referred to, had granted these debtors time of payment, and had given them the further privilege of paying the whole remaining part of the debt, both principal and interest, in annual payments of \$400. These payments were made according to the direction of that act, and its requirements were, therefore, fulfilled by the debtors. It was impossible for the officers of the State to know whether these payments were made in accordance with the equitable rights of the debtors, as between themselves, or indeed to know what those rights were. Nor had they known the proportions of the debt which each individual should have paid, would it have been in their power to have forced collections from the delinquents, so long as the others paid the whole amount required to be annually paid by the act of 1820.

In stating the accounts of each individual separately upon the application made to divide the accounts as before mentioned, great care was taken to compare the payments, as given by the debtors, with the credits as shown from the books of this office, and the amounts were found exactly to agree; and in the distribution of these payments to the separate accounts, the applications between principal and interest were made to conform precisely to the credits as given at the time of the respective payments, and as evidence by the Treasurer's receipts for those payments in each instance. It will, however, be at once seen, that when the separate accounts were brought up to the date at which the division was to take place, a disregard must be had to the separation preserved between interest and principal, and that the payments which had been made by some of the parties, and credited to interest, which ought to have been paid by others, would be again to be transferred to the credit of the party making the payment, and would consequently go to the reduction of his share of the principal, as his payments would have exceeded his own proportion of the interest. This is commonly the fact in cases of the separation of accounts when several parties are interested, but the consequence is not the necessary occasion of any loss to the State, as it can only leave an undue balance of interest in arrear against the party who has failed to pay his proportion, commencing at the time of the separation of the accounts, and if the State does not then collect that arrear of interest, or of what is made interest by the separation, it is its own fault, and, therefore, the loss, if any, is justly borne by it. This result is entirely produced by the inequality of payments by the respective parties interested, and cannot arise from any other source; and though it may be out of the power of the State to restore the equality while the interest remains joint, yet when it becomes several, by a separation of the accounts, its powers from that time reach to all the debtors individually, and its collections upon each account should be regulated by the state of that account, without reference to the other parts of what, before the separation, was one interest.

These positions and their effects upon the accounts kept in this office, as well for lands sold as for loans, could not be better exemplified than in the case of the petitioners. After the discharge of two of the members of the Oldenbarneveld manufacturing society, by the act of 1820, there seems to have been five several and equal interests in the payment of the balance due upon the two mortgages given to the State for the moneys loaned to the company. These

interests were that of John Mappa, John and Sophia Mappa, John Storrs, Benjamin Brayton, and Luther Storrs. Some of these parties have, since the act of 1820, paid more than they were required by that act to pay according to their interests in the debt, and others of them have paid much less than their proportionate share. Still the aggregate payments have been in conformity with the requirements of the act, and, therefore, no opportunity has been afforded to the officers of the State, to force payments from the delinquent partners. At length, however, the parties make application, pursuant to the provisions of sections 33 and 34 of chap. 8 title 3 of first part of the Revised Statutes, to sever their interests, and all agree that the payments actually made by each shall be passed to the credit of the individual making them, in the statement of the separate accounts. This is literally done, preserving in all cases the same distinction between interest and principal in giving the credits which was preserved in the Treasurer's receipts for the same payments. It will be recollected that there were two separate mortgages, the one for \$3,000, and the other for \$2,000, both given by the same parties and for parts of the same loan, but still, as they were given at different periods, forming distinct and separate accounts upon the books of this office. The result of the separation of the accounts between the individuals above named, the interest being calculated up to the 24th day of December last, was as follows, to wit:

The \$3,000 Mortgage.

Names of Co-partners.	Overpayments.		Short payments.	
	Interest.	Principal.	Interest.	Principal
John Mappa,.....	\$134 04	313 39
J. & S. Mappa,.....	134 03	313 39
John Storrs,.....	49 99	125 89
Benjamin Brayton,.....	187 58	423 53
Luther Storrs,.....	463 34	428 57

The \$2,000 Mortgage.

John Mappa,.....	26 79	9 22
J. & S. Mappa,.....	26 80	9 22
John Storrs,.....	192 87	285 72
Benjamin Brayton,.....	26 46	285 72
Luther Storrs,.....	261 70	148 62

From this exhibit of the standing of the separate accounts of these parties, it will be seen, that the credits given to each, as they have agreed they should be given, with the single exception of preserving the same distinction between interest and principal which

was preserved at the time of each payment, show over-payments of interest by all the parties but one, and upon one of the mortgages over-payments of principal also by two of the parties ; while Luther Storrs will have standing against him an amount of interest, due and in arrear upon each account, larger than the amount of his share of the principal left unpaid. When therefore the overpayments of interest, by the other parties, are transferred to their respective credits, and go to reduce their proportions of the principal, as must be done in the division of the accounts, the amount of principal upon which the State is receiving an interest, will be thereby proportionably reduced, while that reduction will be changed to a charge of interest against this individual, producing nothing, and the use of which is lost to the State, unless it is immediately collected. The aggregate amount due to the State upon the two mortgages, will not be diminished by the separation, but the distribution of the payments between the parties will have the effect to diminish the aggregate of the principal, and to leave an arrear of interest upon this one account, which does not now exist upon the accounts entire.

The parties who have made payments beyond their proportions, also complain that they lose the use of their money, which has been applied to keep down the interest of this delinquent partner, while it should have gone to diminish their shares of the principal, and thus to have lessened the subsequent charges of interest against them. It is true, that in the mode of keeping the accounts, they do sustain this loss, but it is not seen that the State should indemnify them against the defaults of an unfaithful copartner. Had they not paid the interest due, the State would have collected it, and if, to save themselves from the costs of such collection, they have been compelled to pay that share of interest which this joint debtor with them, should have paid, it is presumed the courts of equity present to them the power of redress, while to the State, should it make the allowance, no means of remuneration can be afforded.

So far as the prayer of the petition is that the parties in arrear may have time of payment granted to them, no objection is seen to a compliance with it, provided the arrears of interest are first paid, and the annual payments to be made in future, be not less than the interest annually accruing. The arrears of interest against any of the parties, except Luther Storrs, are very trifling, and it is presumed, can be easily and readily met ; but as the interest due from him, in case of a separation of these accounts, will be more than the

principal, chargeable to him, the propriety of a suspension of collection is a question addressing itself to the equitable feelings of the Legislature, and upon which the Comptroller cannot consider himself called upon to give an opinion. That this large arrear of interest, if suffered to remain unpaid, will produce nothing to the State, is known to that Body, and the propriety, in case of delay, of making the whole debt against this individual, principal, so that the State may receive an interest upon the money due, as a consideration for its forbearance, is a suggestion which may be worthy of consideration. In this particular instance, such a condition affixed to the grant of time, would be more equitable, from the fact that Mr. Storrs has made but one payment, for which he individually is to receive credit, by the agreement of the parties, and that payment was made by him at a time, when nearly all the interest due upon account to which the credit was passed, had been paid by the other parties; so that his payment was almost wholly credited to principal, and, in the separation of the accounts, goes to diminish the amount of principal, with which he is charged, while the interest which has accrued upon his share of the debt, remains unpaid. No legislation is believed to be necessary to enable these parties to separate their accounts, unless the Legislature should desire to direct these accounts to be opened upon principles different from those which govern the opening of new accounts generally in this office. It has been suggested, that should these parties separate their interests in this loan, and should some of them pay off entirely their proportions, still that the law of 1820, would impose upon the remaining parties, the obligation of paying the full sum of four hundred dollars annually until the whole loan should be paid. Such is not the opinion entertained by the Comptroller of the obligation imposed by that act, and he would not feel it to be his duty to require the payment of that amount from the parties who might have accounts outstanding, if parts should be fully paid, unless the arrears of interest should require a payment to that extent. But he will consider it his duty, unless otherwise instructed by the Legislature, to call for any arrears of interest, which a division of these accounts may produce, and if payment is not made, to take the same steps for their collection, which the law prescribes to him in other cases where more than two years of interest shall remain unpaid.

Respectfully submitted.

SILAS WRIGHT, JR.

Dated March 28, 1831.

IN ASSEMBLY,

March 28, 1831.

REPORT

Of the select committee, on the petition of the inhabitants of the towns of Clarence and Amherst, relative to burying grounds.

Mr. Fillmore, from the select committee to whom was referred the petition of the inhabitants of the towns of Clarence and Amherst in the county of Erie,

REPORTED—

That the petitioners allege in their petition, that they have purchased a piece of land in the town of Clarence for a burying ground, but as part of them reside in the town of Clarence and part in the town of Amherst, by the present law it can only be conveyed to one of said towns, for the use of the inhabitants of such town; which would deprive a part of the proprietors of the use of the property. They therefore pray for the passage of a law that may authorise a conveyance to the town in trust for the real owners, whether residing in such town or not.

The Revised Statutes, (vol. 1, p. 337, art. 1,) declare that "each town as a body corporate, has capacity to purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the power of the legislature over such limits."

A liberal construction of this provision would probably authorise the town to hold lands conveyed to it for a burying-ground, for the use of all the inhabitants of such town; although the act seems to speak of lands *purchased* by the town, which is not usually the case with regard to land purchased for a burying-ground. They are

usually in practice purchased by a few individuals and conveyed to the town, or some religious corporation, or trustees for the use of the purchasers.

But admitting that the town has authority to hold lands for a burying-ground, without regard to the question of who was the purchaser, yet it must be held for the *use of its* inhabitants, and of course for *all* the inhabitants of the town. It therefore leaves the following cases unprovided for, to wit :

1st. Where a portion of the inhabitants residing in one part of the town wish to purchase a piece of land for their exclusive benefit. These cases are very common, and it is believed by your committee that there are few towns where there are not more cemeteries than one. If more than one, they are generally calculated to accommodate different sections of the town. It should of course then be under the supervision of those immediately interested in taking care of it. Yet by the article in the Revised Statutes, above alluded to, "the town is to make such orders for the disposition, regulation or use of its corporate property, as may be deemed conducive to the interests of its inhabitants." It seems to your committee that this provision of the Revised Statutes could hardly have been intended to apply to lands held for burying-grounds. It probably was intended to apply to lands held by the town, on which they have erected a town-house or pound, or the common lands which are held by many towns for other purposes. They are rather strengthened in this conclusion as they find an act was passed in 1826, authorising the conveyance of land to the supervisor of the town, for the use of the inhabitants as a burying-ground. This act was repealed in the general repealing act, and is not referred to in the article above alluded to. They also learn that the Revisers reported a general bill, authorising voluntary associations and incorporations for the purpose of purchasing and holding lands for cemeteries, which was never passed into a law. But even if it was intended to apply to the case of lands used as a burying-ground, it does not, as before stated, apply to the case where land is purchased and held for the use of a part of the inhabitants of a town.

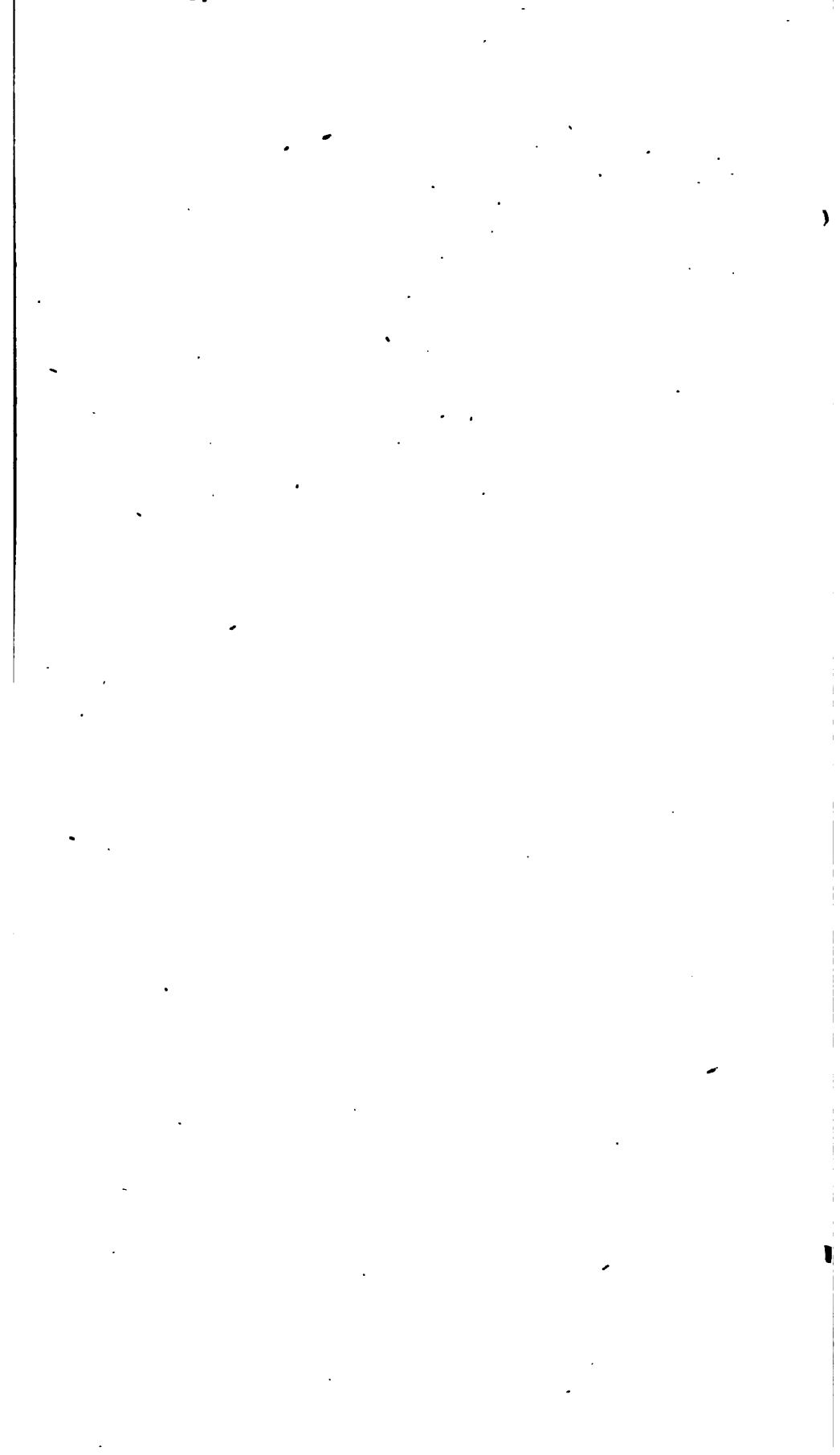
2d. It does not provide for the case mentioned in the petition, where part of the inhabitants reside in another town, or towns. These cases must also frequently occur, when it is much more convenient for the inhabitants of two or more adjoining towns to unite in the purchase of a cemetery, than for each party to purchase one

in their own town. Town lines should certainly not regulate or control a matter of this kind.

3d. It may be convenient to purchase a piece of land for a cemetery, a part of which shall lie in two or more towns. This case is not provided for by the Revised Statutes ; and though it is not a case as likely to occur as the others, yet it was thought advisable to provide for it in the same bill.

No provision is now made by law for apportioning to different individuals any part of a public cemetery. This is very common in practice, and very desirable. Nor is there any provision authorising those immediately interested to bring suits for the protection of the land, fences and fixtures. Wantonness, and a malicious propensity to mischief have not even spared the grave-yard, and certainly some means should be provided to punish the aggressor.

Your committee have prepared a bill, which they think will remedy these evils and supply these deficiencies in the existing law ; and as they must be common to the county at large, they have extended it to the whole county, not feeling justified in extending it to other parts of the State ; which bill they ask leave to introduce.



IN ASSEMBLY,

March 30, 1831.

REMONSTRANCE

Of the Medical Society of the city and county of New-York, against the report of the committee on medical societies.

To the honorable the Legislature of the State of New-York, in Senate and Assembly.

The Medical Society of the city and county of New-York, beg leave respectfully to submit, That in requesting of the Legislature to make some improvements in the existing "general regulations concerning the practice of physic and surgery of this State," such as that of enabling them to elect out of their own body a certain number of their fellow practitioners, to be named a faculty of medicine, they, the said Medical Society, meant to conform to a usage which prevails through all enlightened nations, and to adopt an appellation which is characteristic among learned bodies, more especially among physicians.

The said society begs leave further to submit, that as the law already stands, "the medical societies are respectively empowered to examine all students who shall and may present themselves for that purpose, and to give diplomas under the hand of the president and seal of the society, before whom such students shall be examined; which diploma shall be sufficient to empower the person so obtaining the same to practise physic or surgery, or both, as shall be set forth in the said diploma, in any part of this State."—9th section of the act to incorporate medical societies.

In the face of such high confidence placed in the medical societies by the Legislature, and in spite of the important duties it enjoins them

[A. No. 292.]

to perform, we see with equal surprise and regret, that the "committee on medical societies and colleges," seeks to deprive this society of that confidence, and to misrepresent it as not fit to be trusted "with a responsibility interwoven with the health and safety of the good people of this State." The pretence taken for this unjust aspersion, is "that the licensed practitioners in the city of New-York, are necessarily a fluctuating body, the majority often young and inexperienced, and almost constantly subject to change." The reverse of this will be admitted by those best acquainted with our city. The licensed practitioners of physic are not seen to move in or out more than the lawyers, merchants, or any other class of the inhabitants. Perhaps less; for the interest of a physician is to preserve the connections he forms, and these are local; so that even to remove from one neighborhood to another, is almost always attended with some loss of business.

Neither is it the fact that the majority of this society are young persons. How can it? The members are admitted year after year, in small numbers, into an old and numerous stock. The youngest must be over twenty-one before he gains admission. At this time he has a voice in the election of your own honorable body; he is invested with the right of practising physic and surgery in your families, and of doing many other things far more difficult in themselves, than it is for him to judge of the character, standing, learning and talents of his fellow practitioners.

In the third paragraph, page 2 of the report, it is asserted "that the manner in which the Regents appoint is better calculated to procure the best talent for the medical professorships." The committee however offers no proof in support of this allegation. But we know that the Regents appoint upon some recommendation or other, and that personally, they never institute any examination or trial of the candidates. The method we prefer is different, and founded in the rights of the whole profession to teach as well as practise medicine, upon an equal footing among all its members; in the words of the old diploma, "*medecinam docendi et faciendi*." Where this mode was adopted the able teacher would be soon known, and so would the incapable; and no student, for the sake of his degree, would be forced to pay the worst. The acquirements of the candidate for medical honors would be tested by his examinations and exercises, and his teachers would not be his examiners, nor vote upon his admission, as they are and do at present. This is the mode that

we prefer before that now in use in the two colleges, according to which the candidate is examined by his teachers, in secret session, recommended for a diploma to the Regents, who never see him, but who are sure to forward what is called for, upon trust.

We therefore reiterate our prayer, that degrees thus conferred may not be made a license to practise. Let them be literary honors, if you will, in common with other college degrees; but let the license to practise be obtained from practical men, by an open examination before an audience of practitioners, where there shall be neither bias nor self-interest to control the result. We do not ask to abrogate the practice of the colleges, among those who like it; we do not ask to touch their organization; but we pray that their present monopoly may no longer be permitted to stand between us and a freedom of choice in teaching and learning. Such freedom we conceive would be more beneficial to the student, more impartial towards the public, more promotive of science, and more becoming, we presume to say, the wisdom of the Legislature, than a determination not to alter or improve.

We have always forbore to speak disrespectfully of the colleges; but when their advocates allege that competition upon equal terms would subvert the one in our city, do they not themselves blemish its character, and furnish an argument in favor of another, or at least of free competition, the great promoter of improvement?

What we desire further and wish to impress earnestly on your honorable house, is, that the term of study of four years, originally enjoined by our charter, and subsequently curtailed to subserve the interests of the colleges, may henceforward be enforced without exception. The term is full short for becoming initiated in so extensive and complex a study as medicine, and in Europe, with all their facilities for acquiring and communicating knowledge, it is never less.

We conclude by humbly praying that you will not be prejudiced against our petition and bill, by the report of the committee on medical societies and colleges, but that in your wisdom and impartiality, you will grant the same.

Done at a Special Meeting of the Society, held
March 7, 1831.

[L. s.]

DANIEL L. M. PEIXOTTO, M. D. *President.*
J. W. AVERY, M. D. *Secretary.*

Resolved, That the Hon. the Representatives in Senate and Assembly from this city, be requested strenuously to forward the views of this Society, as set forth in the original *Petition* and the accompanying *Remonstrance*, in opposition to the existing monopoly of medical education.

[L. S.] *Extract from the Minutes of the Medical Society,*
March 7, 1831.

J. W. AVERY, M. D. *Secretary.*

IN ASSEMBLY,

March 28, 1831.

REPORT

Of the select committee, on the petition to incorporate the Buffalo Female Seminary.

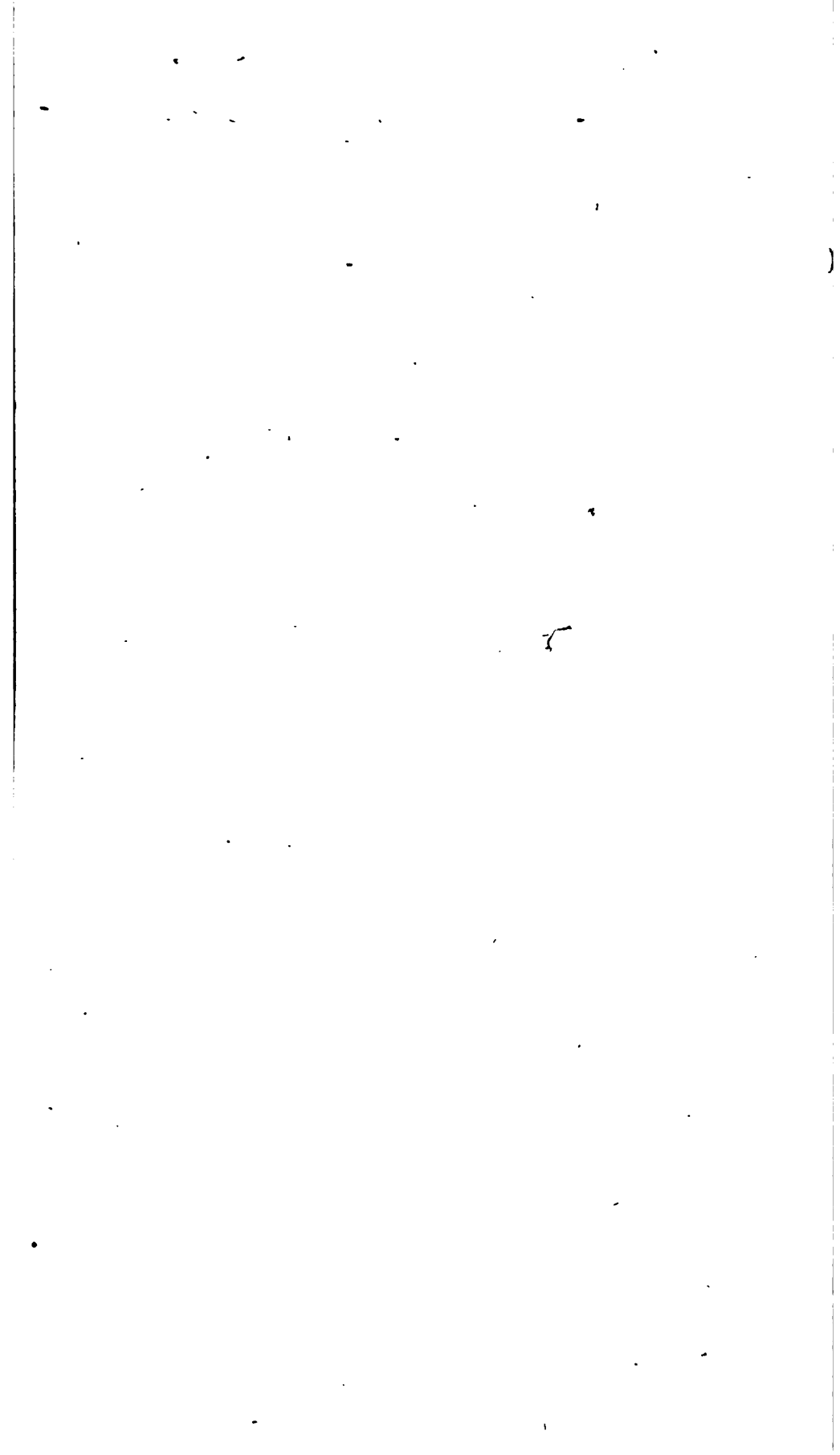
Mr. Fillmore, from the select committee to whom was referred the petition of the citizens of Buffalo, praying for the incorporation of a literary society for the education of females,

REPORTED :

That they have had the same under consideration ; and the petitioners allege, what is known to a part of your committee to be true, that Buffalo is a point that presents many and peculiar advantages for the location of a seminary for the education of females : Its climate is salubrious and healthy ; its position is central and pleasant ; and the canal on the one hand, and the lake on the other, open communications that render it of easy access to a vast extent of country. The petitioners also allege that there is no institution of the kind within one hundred miles of that place ; that the academical institutions in the western part of this State are principally attended by males, and particularly the one in Buffalo is attended by young gentlemen exclusively.

Your committee deem it unnecessary to enter into any arguments, to shew the duty of the Legislature to encourage, by all means in their power, so laudable an object as the education of females in the higher departments of literature. This question has long since been settled by public opinion.

The petitioners pray for an act of incorporation, to aid them in this praiseworthy undertaking ; and your committee are of opinion that their prayer should be granted, and have directed their chairman to ask leave to introduce a bill accordingly.



IN ASSEMBLY,

March 30, 1831.

RESOLUTION

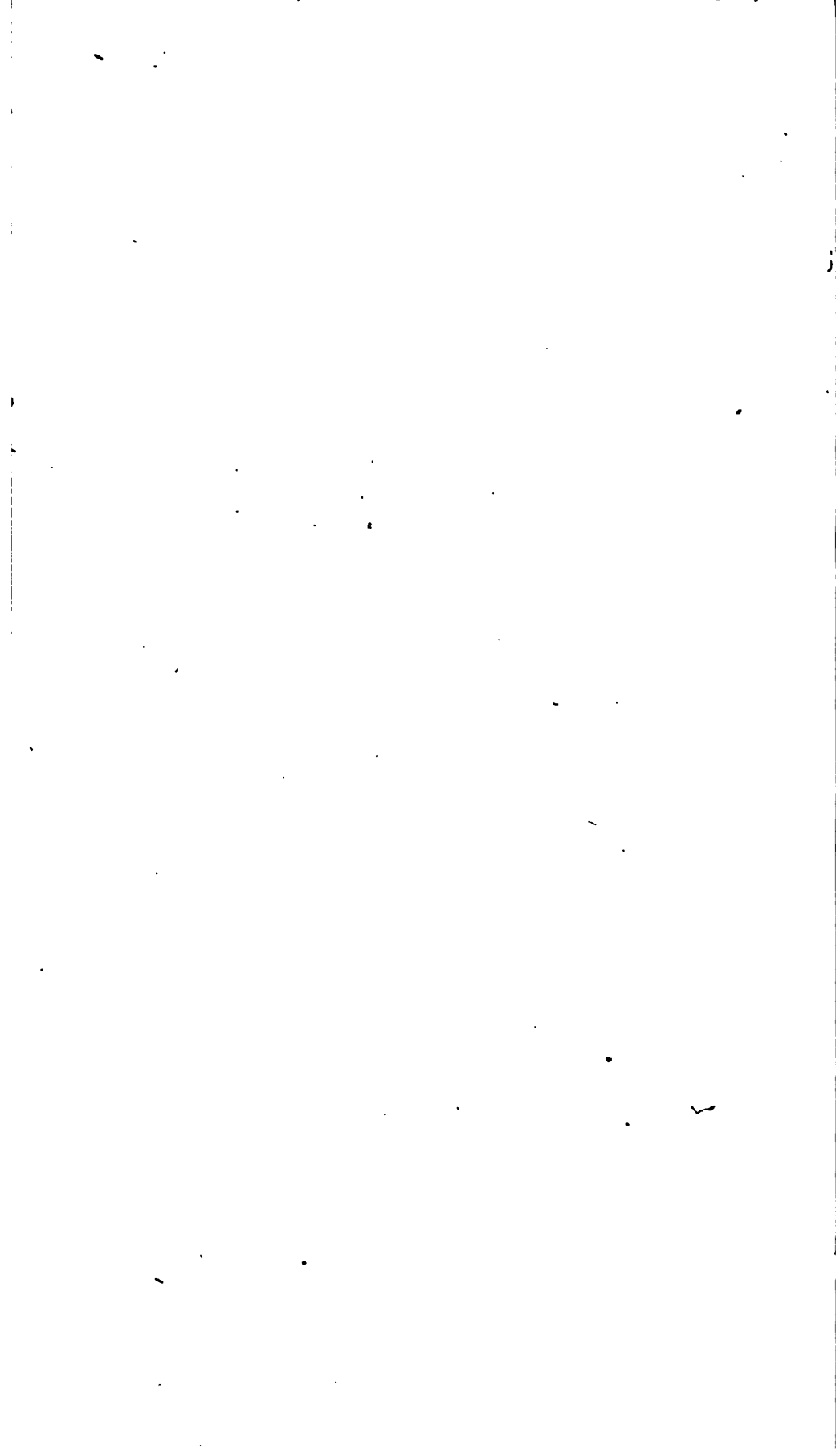
Brought in by Mr. Gansevoort, as chairman of the committee on the manufacture of salt.

Resolved, (if the Senate concur,) That the following amendment be proposed to the Constitution of this State, to wit :

Expunge from the tenth section of the seventh article, after the words "and the said tolls, together with the duties on the manufacture of all salt," the following words : "as established by the act of the fifteenth of April, one thousand eight hundred and seventeen."

Also, expunge from the same section of the said article, after the words "and neither the rates of toll on the said navigable communications," the following words : "nor the duties on the manufacture of salt aforesaid."

Also, in the same section of the said article, after the words "shall be reduced or diverted at any time before the full and complete payment of the principal and interest of the money borrowed or to be borrowed as aforesaid," insert the following : "nor shall the duties on the manufacture of salt aforesaid, be diverted at any time before such full and complete payment of the said principal and interest."



IN ASSEMBLY,

March 29, 1831.

REPORT

Of the committee on claims, on the petition of
Solomon Utter.

Mr. J. C. Spencer, from the committee on claims, to which was
referred the petition of Solomon Utter,

REPORTED—

It appears from the affidavits of Robert Blair, Jacob Lawson and Ananias McDaniel, annexed to the petition, that the petitioner served as an artillery artificer, and was honorably discharged at the end of the war. In addition to this, he produces an original discharge signed by General Washington, certifying that the petitioner faithfully served five years, and was enlisted for the war. These documents conclusively establish the important facts of the case, and leave only one question to be determined: whether the petitioner comes within the resolutions promising bounty lands. By referring to a report of the Attorney-General, made to the House of Assembly in 1825, (*Assembly Journals*, p. 833,) the members of the House will find a full and very able examination of the question.

It would be tedious to state the whole history of the matter; it will be found to result in these propositions, that there was a regular corps of artificers, recognized by Congress as part of the eighty-eight battalions: that there were men employed as artificers from time to time, but who did not belong to the corps, and were never recognized as such. The test seems to be, whether they were entitled to lands under the resolutions of Congress; if so, then they were entitled to bounty lands under the resolutions of this

State. The petitioner brings himself within this rule, by producing a certificate from the first clerk of the bounty land-office at Washington, that a land warrant for 100 acres of land has been issued to him, as having been returned as a private of the corps of United States artillery artificers. With this evidence before them, your committee cannot perceive any reason which should prevent an allowance to the petitioner equal to his claim for 500 acres of the military bounty lands. The delay in the application is sufficiently accounted for.

Your committee have directed your chairman to ask leave to introduce a bill for the relief of the petitioner.

IN ASSEMBLY,

March 29, 1831.

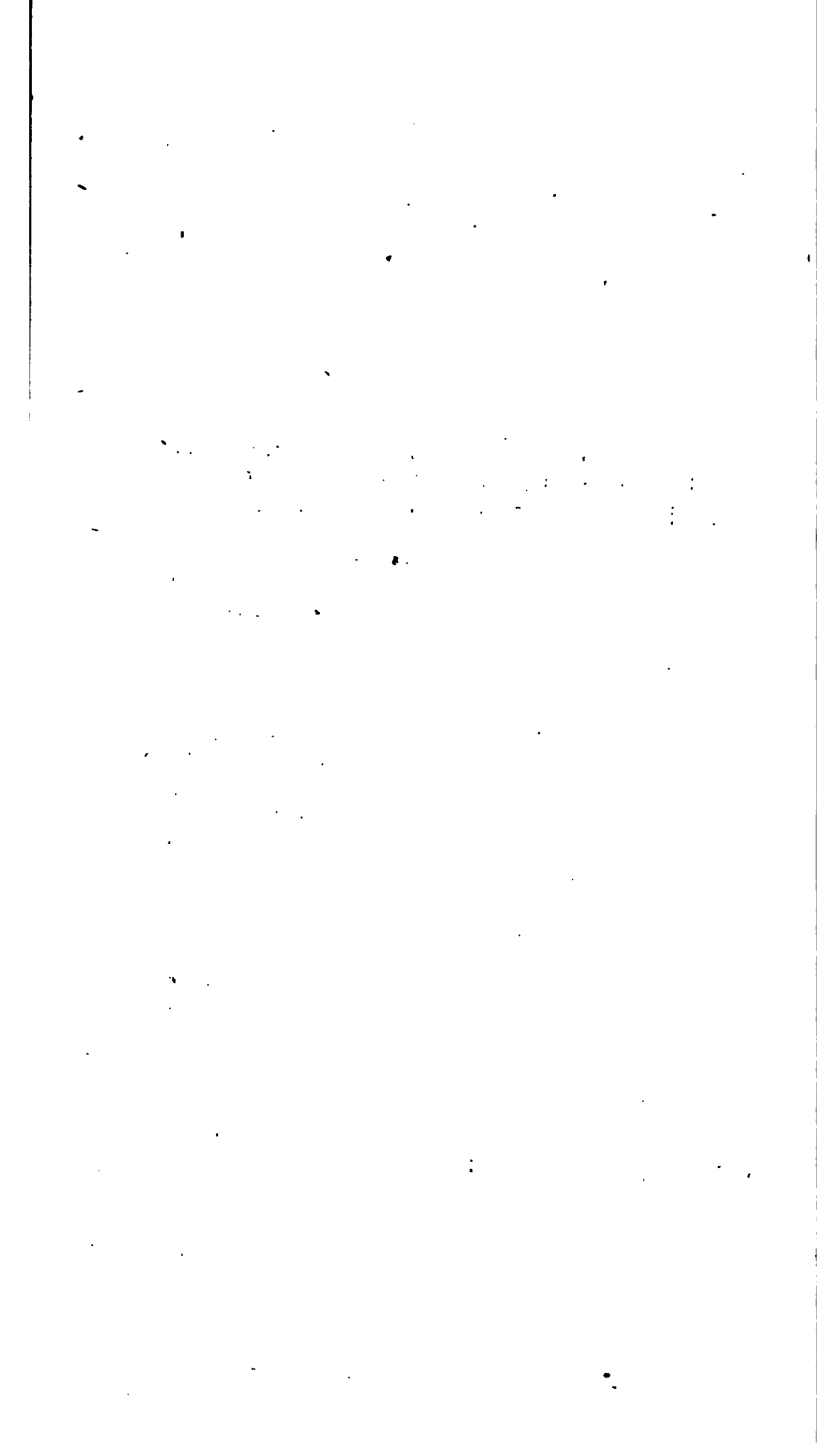
REPORT

Of the select committee on the memorial of the Mayor, Aldermen and Commonalty of the city of New-York relative to the opening of Union-Place.

Mr. Selden, from the select committee to whom was referred the memorial of the mayor, aldermen and commonalty of the city of New-York, praying for the passage of a law relative to Union-Place,

RESPECTFULLY REPORTS:

That it has been deemed expedient to improve a part of the said city by opening a certain public place, to be called Union-Place, near the junction of the Bloomingdale and Bowery roads, embracing also that part of the Fourth Avenue which lies between the said roads; that in consequence of certain proceedings now pending in the Supreme Court, relative to the said Fourth Avenue, and inasmuch as the existing laws relative to opening streets, and avenues, and public places are different, it becomes necessary that a special act should be passed to enable the said improvement to be carried into effect: and as the present condition of that part of the city requires that the said public place should be opened as soon as possible, for the relief and convenience of the owners of property and inhabitants upon and in the neighborhood of the same, your committee are of opinion that the act applied for, on this subject, should be passed; and they have, therefore, directed their chairman to report a bill accordingly.



IN ASSEMBLY,

March 29, 1831.

REPORT

Of the select committee on the petition of the inhabitants of the town of Cameron in the county of Steuben.

Mr. Dunlap, from the select committee to whom was referred the petition of the inhabitants of the town of Cameron, in the county of Steuben,

REPORTED—

The petitioners represent in their petition that they have on hand a poor fund of \$123, for which they have no use, as they have no paupers for whose support it is necessary to expend it; and also, that a vote was taken at their last annual town-meeting, and decided unanimously in the affirmative, requiring \$50 of their poor fund to be paid over, the present year, to the commissioners of common schools, to be expended by them for the support of schools in the town of Cameron. And they pray that a law may be passed which will enable them to carry into effect the object of their vote at their town-meeting, and that will likewise authorise the freeholders and inhabitants of said town to make such a disposition of the poor fund which shall from time to time come into their hands, as they shall, by a vote at their annual town-meetings, direct, for the use of schools.

Your committee, having duly considered the prayer of the petitioners, and finding no provision in the existing laws which will meet the case mentioned; and your committee, considering also the support of common schools a subject of primary importance, and the object in view in this case laudable and just, have directed their chairman to bring in a bill.

and the other side of the mountain
the other side of the mountain
the other side of the mountain

IN ASSEMBLY,

March 31, 1831.

REPORT

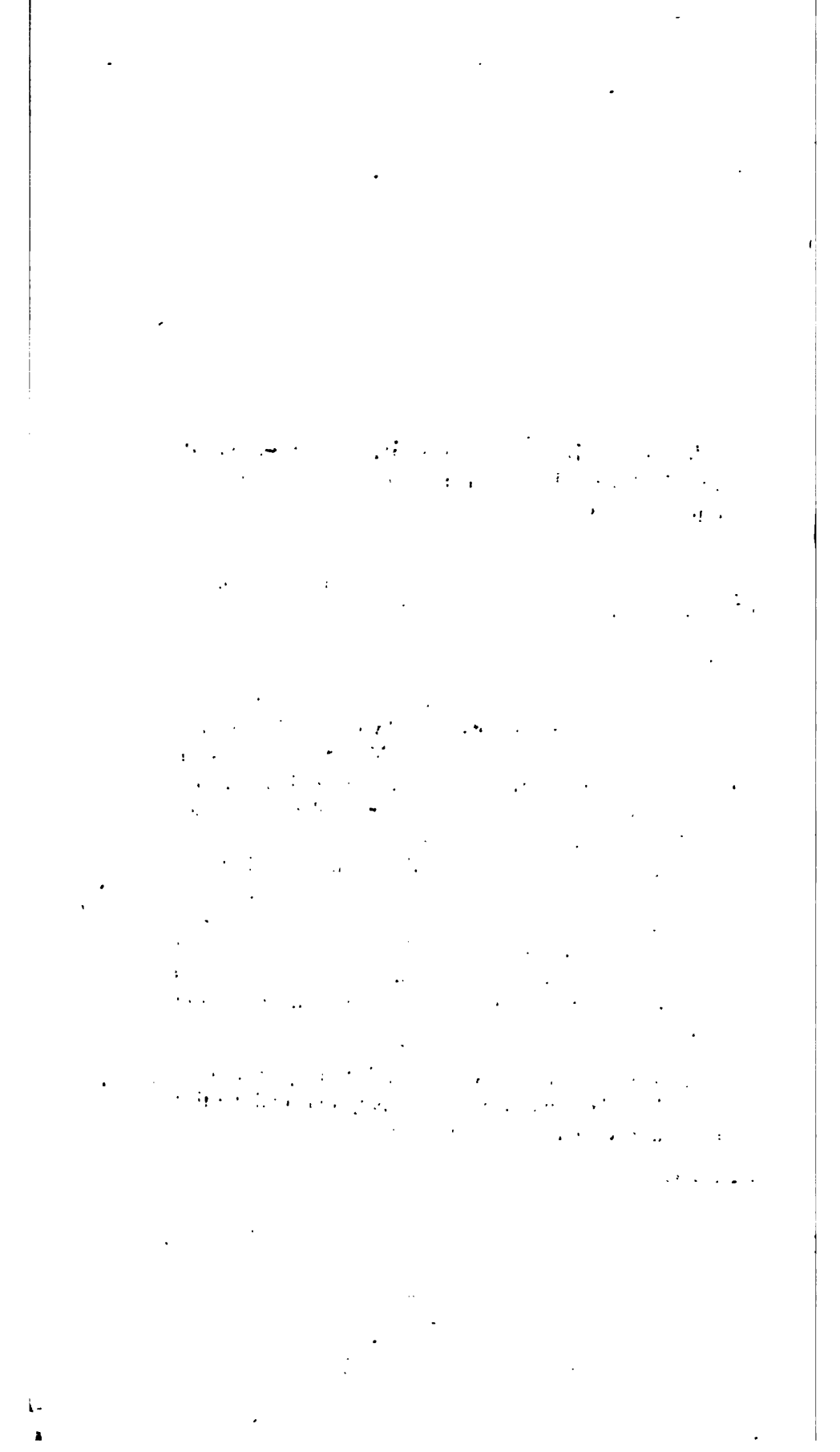
Of the select committee on the petition to revive and continue in force the charter of the Butchers' Benevolent Society.

Mr. Ostrander, from the select committee to whom was referred the petition to revive an act and continue in force the charter of the Butchers' Benevolent Society, in the city of New-York,

REPORTED—

That they have considered the subject matter referred to them, from which it appears, from the facts stated by the petitioners, that the Butchers' Benevolent Society was incorporated in the year 1816, and during the time for which it was chartered, has in no instance departed from the benevolent objects for which it was intended. It likewise appears, from the facts set forth by the petitioners, that the charter of said society expired by limitation in March, 1830; but previous thereto, at the last session of the Legislature, the petitioners applied for a renewal of said charter, which passed the House of Assembly, but remained among the unfinished business of the Senate. Consequently, they are again under the necessity of appealing to the Legislature for the purpose of reviving the act of incorporation.

Your committee are therefore of opinion, that the prayer of the petitioners ought to be granted, and have prepared a bill for that purpose, and ask leave to introduce the same.



IN ASSEMBLY,

April 1, 1831.

REPORT

Of the Attorney-General on the petition of Abijah Hunt.

The Attorney-General, to whom was referred by the Assembly the petition of Abijah Hunt,

RESPECTFULLY REPORTS:

That by an act, passed March 30, 1809, (Private acts of 1809, p. 184,) the Commissioners of the Land-Office were directed to grant letters patent to Archibald McKinley for 200 acres of land, "to hold to the said Archibald McKinley during his natural life, and then to his heirs forever." A patent was issued, pursuant to the act, for 200 acres of land, part of lot No. 23, in the township of Stirling. The habendum clause in the patent was as follows: "To have and to hold the above described and granted premises unto the said Archibald McKinley, as a good and indefeasible estate during his natural life, and then to his heirs forever." On the 2d day of May, 1809, McKinley conveyed the land in question to the petitioner in fee.

The petitioner represents, that McKinley died several years since, leaving no heir capable of inheriting his estate; that doubts have arisen whether McKinley took any thing more than a life estate in the land; and he prays that the people will relinquish any right which they may have acquired to the land by escheat.

The Attorney-General is of opinion that McKinley took an estate in fee in the land; and consequently, that the title of the petitioner is good, whether McKinley left heirs or not. But as this title has

been, and may be again doubted, a law releasing any right which the State may have to the land by escheat, might benefit the petitioner without doing any injury to the public.

Respectfully submitted.

GREENE C. BRONSON,
Attorney-General.

March 31, 1831.

IN ASSEMBLY,

March 9, 1831.

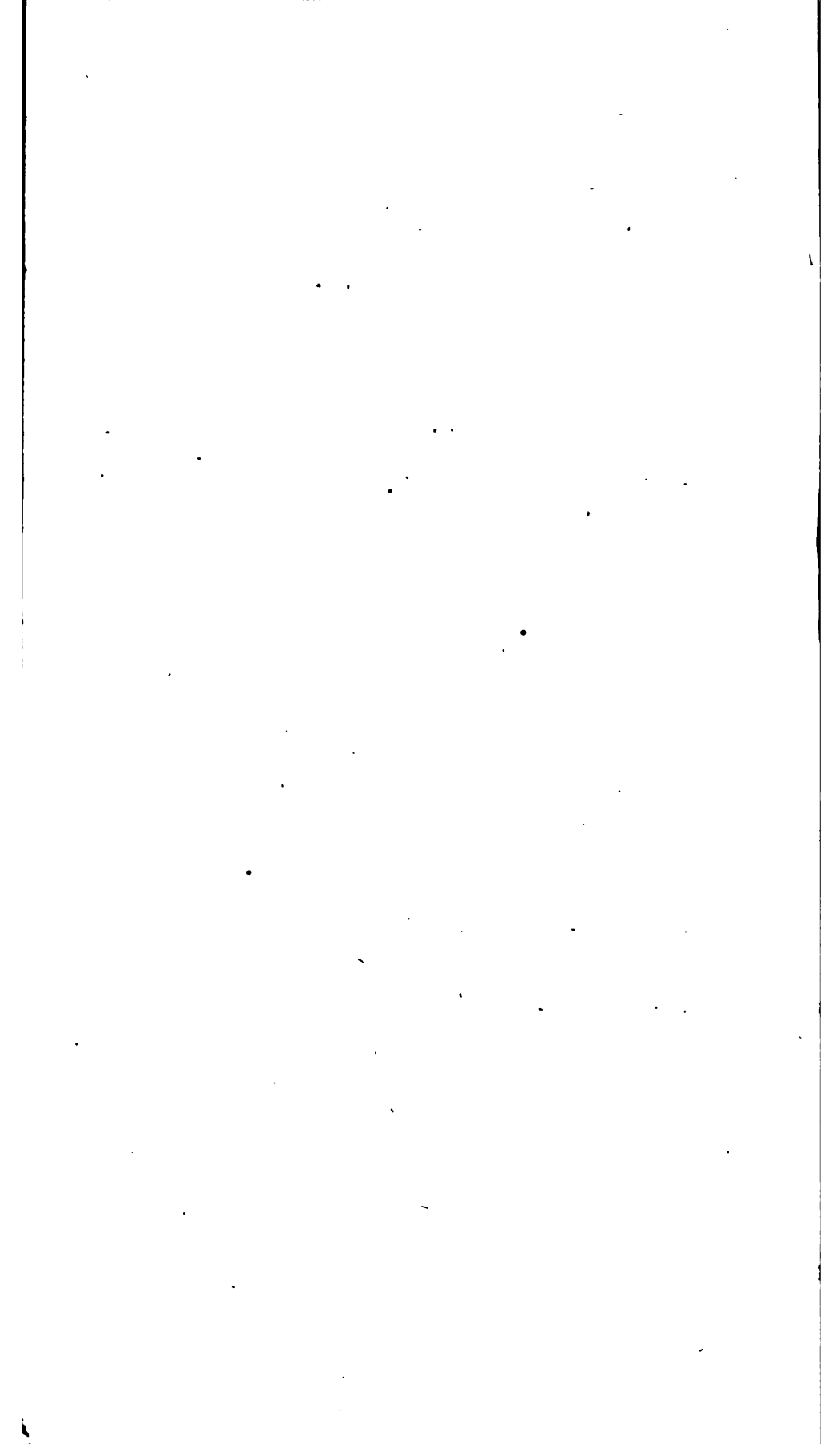
REPORT

Of the select committee on the petition of the supervisors and commissioners of highways, of the town of Phelps.

Mr. Ottley, from the select committee, to which was referred the petition of the supervisors and commissioners of highways, of the town of Phelps, in the county of Ontario,

REPORTED—

The petitioners represent that from the number of streams which intersect their town, the expense of erecting and maintaining bridges therein, is greater than can be defrayed by the sum which the town is authorised to vote for that purpose, and they ask that the inhabitants may be authorised to raise a sum not exceeding \$500. Your committee have personal knowledge of the truth of the facts stated in the petition, and as they have evidence of the publication of the notices required by law, have directed their chairman to ask leave to introduce a bill in conformity with the prayer of the petition.



IN ASSEMBLY,

April 1, 1831.

REPORT

Of the Superintendent of Common Schools on the
petition of the Trustees of school district No. 11,
in the town of Farmington.

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, March 30, 1831.

The Superintendent of Common Schools, to whom was referred
the petition of the trustees and several of the inhabitants of school
district No. 11, in the town of Farmington, Ontario county,

RESPECTFULLY REPORTS :

That the petitioners ask for the passage of a law which shall au-
thorise the assessment of a tax upon the inhabitants of said district
to the amount of 76 dollars, to indemnify the trustees for certain
expenses incurred by them in a number of law suits, to which they
have been subjected in the discharge of their duties as trustees.

The petitioners refer to a decision made by the Superintendent;
and it is, perhaps, necessary that a brief history of the unhappy col-
lisions which have agitated district No. 11, and the present state of
the controversy, should be given, to enable the Legislature to de-
cide whether it is expedient, at this time, to grant the prayer of the
petitioners.

In April, 1830, the commissioners of Farmington refused to ap-
portion any share of the public money to district No. 11; and in a
statement of facts agreed upon between the commissioners and trus-
tees, the case was submitted to the Superintendent in the following
terms :—" It is conceded that the trustees of the 11th district, in the

town of Farmington, have made an annual report to the commissioners, containing the necessary points, and in due time. And the commissioners have refused to apportion any money to the said 11th district, for this cause, viz: at the annual meeting, in 1828, it was resolved unanimously, that said district be dissolved, and that this resolution be forwarded to the commissioners." At the meeting above referred to, four persons only were present; and it is alleged that there was but one legal voter among the four. On the 3d of August, 1829, a school meeting was held by order of the commissioners of the town: and it was because the report of the trustees, dated January, 1830, embraced a period of schooling prior to the 3d of August, 1829, (in order to complete the three months required by law,) that the commissioners rejected the report. On these and other facts contained in the statement, it was decided by the Superintendent, on the 27th of April, 1830, that the report of the trustees was sufficient; and as the public money for that year had been apportioned and paid to the other districts of the town, the commissioners were required to pay to the trustees of district No. 11 the sum to which they were entitled out of the next monies which should come into their hands. A copy of this decision, marked A. is annexed to this report.

On the 22d of May following, a meeting was held in district No. 11, and a tax of \$100 voted for the erection of a school-house; and on the same day, the commissioners transferred two or three persons, and the lots on which they resided, from said district to district No. 10. The trustees and inhabitants of No. 11 appealed from these acts of the commissioners to the Superintendent, and on a statement of facts agreed upon between the commissioners and trustees, a decision was made on the 18th of June, 1830, reversing the act of the commissioners, and directing that the trustees might legally assess and collect the tax of \$100 which had previously been voted. A copy of this decision is annexed, marked B.

The trustees, in pursuance of the decision of the Superintendent, made out the warrant for \$100 and gave it to the collector. About ten days after this was done, a special meeting was called, and a vote passed reconsidering the tax vote, with the intention of rendering void the tax list which was then in the hands of the collector. The trustees, however, urged the collector to proceed, and in this dilemma the collector stated the facts to the Superintendent, and solicited directions on the subject of his duty. A copy of the letter to the collector is annexed, marked C. Subsequently, a statement

was received from the trustees, and on the 29th of September last, it was decided, that inasmuch as the question of levying the tax in this case had been acted upon by the Superintendent, and the warrant had been issued by the trustees in accordance with his decision, that the resolution of the district was entirely void. This decision is annexed, and marked D.

The dissatisfied persons resisted the collection of the tax; and when it was enforced, commenced prosecutions against the trustees: and it is for expenses incurred in defending themselves against these suits, that the petitioners now ask for a law to raise the sum of \$76, by a tax upon the inhabitants of the district. On the 24th of August last, a district meeting was called, and a resolution passed to raise another hundred dollars "to enable the trustees to finish the school-house, and to save themselves from the expense of attending litigated law suits," as is intimated in a new application of the trustees to the Superintendent, which application is dated February 9, 1831, being six days after the date of the petition to the Legislature.

A detailed statement has also been received from the party opposed to the trustees, contesting the assessment of the second tax, and complaining of all the acts and proceedings of the trustees.

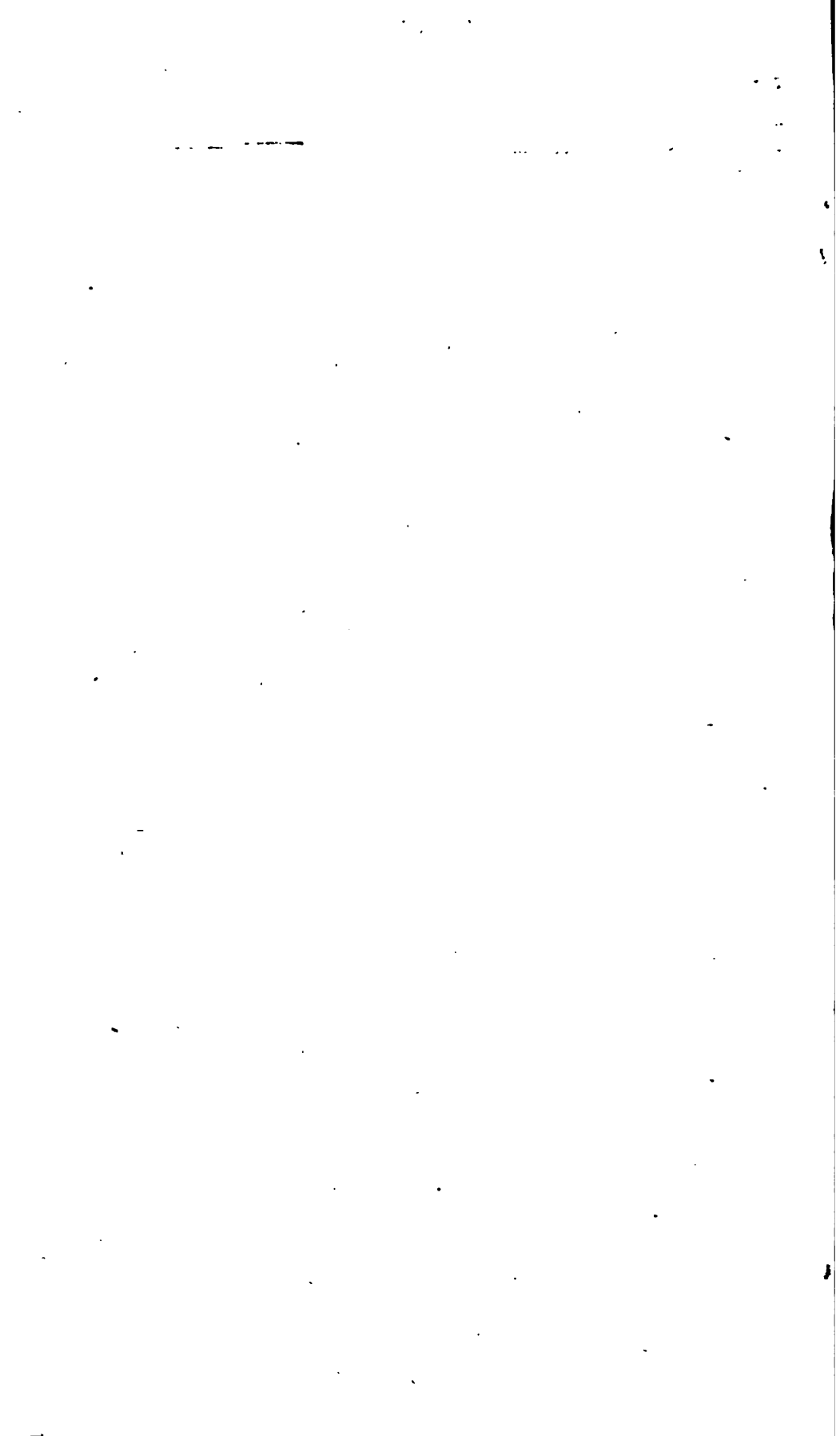
This appeal in reference to the second assessment of \$100 has not yet been disposed of: but it is the opinion of the Superintendent that no portion of this sum can, by any provision, in the statute relating to common schools, be applied to indemnify the trustees for any of the expenditures set forth in their petition to the Legislature.

It does not appear that judgment has been rendered in any of the suits against the trustees; and the charges in their account are for personal attendance of the trustees, counsel fees and procuring witnesses.

There is still a tax of \$100 pending in district No. 11, and if, while the affairs of the district are in an unsettled state, and an appeal undecided, a special act should be passed without notice to the district, authorising another heavy assessment, it would be a surprise upon the inhabitants, or a portion of them, and would increase the unpleasant collisions which have already distracted the district.

All which is respectfully submitted.

A. C. FLAGG.



DOCUMENTS.

(A.)

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, April 27, 1830.

It appears by a statement agreed upon by the commissioners of Farmington and the trustees of school-district No. 11 of said town, that the annual report of said district contains the necessary points required, and was made in due time.

This being the case, said district was entitled to its distributive share of the public money. The vote of the district meeting in relation to the dissolution of the district, has no binding force. The commissioners can alter, modify, and even annul a district; but in doing this, they must attach it to some other district. A district meeting has no power over this matter.

The money in said town having been already apportioned to the other districts of said town, the commissioners, or their successors in office, are hereby directed to pay to the said district No. 11, the amount of money to which it was entitled by its number of children between 5 and 16, compared with the other children of the town, out of the moneys which came into their hands for the next year, before making an apportionment among the several districts in said town.

Given under my hand and seal of office, at Albany, April 27, 1830.

A. C. FLAGG,

Superintendent of Common Schools.

B.

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, June 18, 1830.

In case of the appeal of the inhabitants of district No. 11, from the decision of the commissioners of said town, in detaching lot No. 100, and portions of lot No. 99, and annexing said lots and the occupants, to district No. 10, on the 22d of May, 1830, it appears that these same lots were set to No. 11, in November, 1829, and one of the commissioners was the same person who acted in both cases. It appears that No. 11 has not as many scholars as No. 10; and with the alteration complained of, will be left with about half as many children between 5 and 16, as would remain in district No. 10. These lots were set off the last time, about the period when a tax

of 100 dollars was voted in district No. 11, and the commissioners have suspended the collection of the tax. On examining the papers in this case, there does not appear to be any sufficient reason for the alteration made in district No. 11, by the commissioners, on the 22d of May, 1830 : it is therefore decided, that the acts of the commissioners on that day, so far as they alter the boundaries of district No. 11, be, and they are hereby, reversed and set aside ; and that the trustees of No. 11, are authorised to proceed in the collection of the tax voted by the district, in the manner prescribed by law, and including lots 100 and 99 in their assessment.

Given under my hand and seal of office, June 18, 1830.

A. C. FLAGG,
Superintendent of Common Schools.

(C.)

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, July 16, 1830.

SIR—By whose authority was the special meeting called, which annulled the tax voted at a previous meeting ? By section 63, a special meeting can be held. "whenever called by the trustees ;" and it cannot be held legally, unless so called. If your meeting was not so called, its proceedings are void.

In the sale of property, you are to proceed in the same manner as on an execution issued by a justice. See sec. 88, of the school act, and reference to page 30.

You will find, at page 252, sections 148 and 149, of the 2d volume Revised Laws, and also at page 254, sec. 169, the provisions which are to guide you in selling and exempting property, &c. The Revised Laws, you will find in the office of your town clerk. You should only levy upon property owned by the person who owes the tax.

The 5 cents on the dollar is all which you can collect.

A. C. FLAGG.

(D.)

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, Sept. 29, 1830.

SIR—The district meeting, by subdivision 6 of sec. 61, has power to repeal and alter its own proceedings. A warrant, however, is issued by the trustees, and cannot be considered as the proceedings of the meeting, which can be modified, &c. The proceedings of the meeting, in your case, after my decision on the appeal that the trus-

tees would collect the tax, and after the warrant was issued, can have no effect upon the warrant : if the site for the house is not satisfactory, it ought to be made right.

A. C. FLAGG,
Superintendent of Common Schools.

Farmington, Ontario.

Show this to the collector, as an answer to him.

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

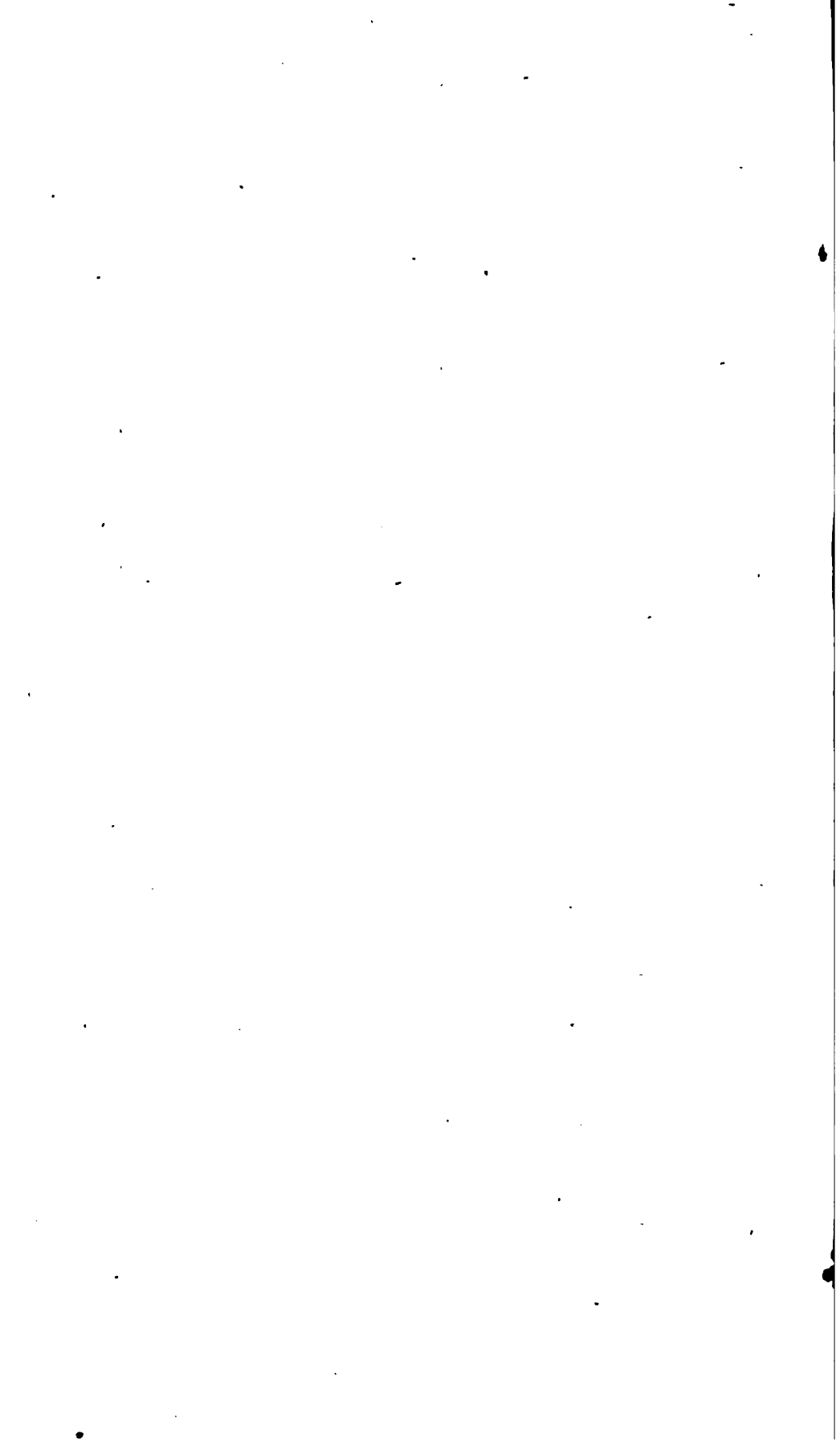
Albany, Oct. 20, 1830.

SIR—I send you the paper to which I presume your letter alludes : you can examine it and copy it, and then return it. If there has been any unfair representations in this matter, you can make a representation to me in the premises. Avoid making such use of the enclosed, as to increase the irritation in the districts concerned.

Yours, &c.

A. C. FLAGG,
Superintendent of Common Schools.

D. ARNOLD, *Commissioner.*



IN ASSEMBLY,

April 1, 1831.

REPORT

**Of the committee on claims, on the petition of
Gideon Castle.**

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Gideon Castle, and the communication of the Commissioners of the Land-Office in relation thereto,

REPORTED—

On the 12th of January last, this committee reported on the original petition of Gideon Castle ; which report is numbered 14 among the Assembly documents, and to which this committee beg leave to refer for the facts and circumstances of the case.

By the misunderstanding between the petitioner and the Attorney-General, mentioned in that report, the petitioner was prevented from contesting the suit brought by the State to escheat the 56 acres of land claimed by him, and a judgment was obtained. In that suit, it was incumbent on the State to establish, that Robert Gipson, the patentee, or the person who inherited from him, died without leaving any heirs. If the petitioner could have shown that any one heir survived, and had conveyed the premises, the suit of the State must have failed. He alleges that there was such an heir, Orremel Gipson, the nephew of the patentee.

It was the object and intent of your committee, to reinstate the petitioner in the situation in which he stood at the time of the arrangement made with the Attorney-General. From the representations of the petitioner, they supposed there could not be any doubt that Orremel Gipson was the only heir at law of Robert Gipson ; and

that if he could show a deed from Orremel, and prove him to be a nephew of Robert, he would necessarily establish a lawful title in fee to the premises in question. They accordingly reported a bill, providing for his relief, in case he should establish such title. On submitting his case to the Commissioners of the Land-Office, pursuant to the act thus reported, it appears from their communication that they decided against him on two grounds: First, that it did not appear that Isaiah Gipson, the brother of Robert Gipson, was his only heir at law; and second, that it did not appear that Orremel Gipson, the son of Isaiah, was his only heir at law. But it would seem, that the Commissioners were satisfied, that Orremel was an heir at law of Robert Gipson the patentee, and that the petitioner was vested with the title of Orremel. Although the petitioner has not, in the judgment of the Commissioners, brought himself within the terms of the act, yet he has established the facts, which in the opinion of your committee entitled him to relief. And on examining the testimony taken by the Commissioners, your committee are of opinion that the evidence is very strong to show that Orremel was the only heir at law of Robert Gipson, and they believe that a jury would have so found. However this may be, your committee are satisfied that their object in reporting the bill, which became a law, has not been obtained. And for the same reasons which induced them to report that bill, they have now directed their chairman to ask leave to introduce another, by which they propose to refer to the Commissioners of the Land-Office, the decision of the question whether the petitioner in 1820 had a valid conveyance of the premises in question, from any heir at law of Robert Gipson; and in case of their deciding in his favor, to extend to him the relief provided by the former act. In this way, and in this way only, can he be reinstated in the situation in which he was in 1820; for, as has already been observed, if he then had such a conveyance from any heir of the patentee, the State could not have recovered.

DOCUMENTS

Accompanying the report of the committee on claims, on the petition of Gideon Castle.

The Commissioners of the Land-Office, in obedience to the resolution of the Assembly, requiring them "to report the evidence produced before them in relation to the claim of Gideon Castle, with their determination on the said claim, and the grounds on which the same was made."

RESPECTFULLY REPORT :

That by the first section of the act, entitled "An act for the relief of Gideon Castle," passed February 4, 1831, the Commissioners of the Land-Office were "authorised and required on the application of Gideon Castle, to inquire and determine whether the said Gideon Castle, in the year one thousand eight hundred and twenty, had lawful title in fee to fifty-six acres of land, part of lot number ninety-seven, in the town of Camillus, which he leased to Gilbert Rose and his wife, derived from Robert Gipson the patentee of the said lot." By the second section of the act, said Castle was permitted to elect, within six weeks after the passing of the act, to have his title to the land determined by the Supreme Court. On the twenty-sixth day of February, last, Mr. Castle appeared before the Commissioners of the Land-Office, and made his election in writing to have the title to the land determined by them; a copy of which election is herewith submitted, marked A.

The applicant thereupon proceeded to submit his proofs in support of the claim, and produced an exemplified copy of the patent to Robert Gipson for lot number ninety-seven in Camillus, excepting one hundred acres in the south-east corner of the lot, bearing date September 30, 1790. He also produced a deed from Orremel Gipson, of Washington, in the county of Litchfield and State of Connecticut, to Gideon Castle, dated November 3, 1807. By this deed the grantor released and quit claimed to said Castle all his right to the lot in question, which he claimed as heir to Robert Gipson.

He also produced receipts showing that he had paid the taxes on the lot for several years.

Martin Mitchell was sworn and examined as a witness on the part of the applicant. The substance of his testimony is herewith submitted, marked B.

Mr. Castle then desired an adjournment of the further hearing and the privilege of examining certain witnesses upon interrogatories, instead of requiring their personal attendance.

Thomas Barlow, Esq. was sworn, and testified, that the persons mentioned by the applicant were aged and infirm, and in his opinion

unable to attend before the Commissioners, and that they were persons of good reputation.

The Commissioners thereupon granted the request of Mr. Castle, and postponed the further hearing until such time as should suit his convenience, and consented that the aged and infirm witnesses should be examined upon interrogatories. A copy of the direct interrogatories upon which the said witnesses were to be examined, marked C., and of the cross interrogatories, marked D., are herewith submitted. The depositions of Jacob Chamberlain, Louis Vinegar alias Winegar, Ruth Beardsley, and Juda Vandoruss, were taken pursuant to this arrangement; copies of which depositions, marked E., are herewith submitted.

On the seventeenth day of March, instant, Mr. Castle again appeared before the Commissioners, and after presenting the depositions in question, submitted his claim for final decision. On the nineteenth day of the same month, the Commissioners made their determination in the premises, a copy of which is herewith submitted, marked F.

The grounds on which the said determination was made, were *first*, that it was not proved that Isaiah Gipson was the only heir at law of Robert Gipson the patentee; *second*, that it was not proved that Orremel Gipson was the only heir at law of Isaiah Gipson.

Respectfully submitted,

GREENE C. BRONSON, *Att'y General.*

A. C. FLAGG, *Secretary.*

SIMEON DE WITT, *Surv'r General.*

SILAS WRIGHT, Jr. *Comptroller.*

A. KEYSER, *Treasurer.*

GEO. R. DAVIS, *Speaker of Assembly.*

EDW'D P. LIVINGSTON, *Lieut. Governor.*

March 28, 1831.

A.

At a meeting of the Commissioners of the Land-Office, convened at the request of Gideon Castle, February 26, 1831.

Present—THE LT. GOVERNOR,
SPEAKER OF ASSEMBLY,
COMPTROLLER,
SECRETARY,
ATTORNEY-GENERAL,
SURVEYOR-GENERAL.

I, Gideon Castle, the person named in the act, entitled "An act for the relief of Gideon Castle," passed 4th February, 1831, do hereby elect to have my claim under the said act inquired into and determined by the Commissioners of the Land-Office, and do request that they will proceed to such investigation and decision: And I do hereby waive and relinquish any and all future right of election under said act. Witness my hand and seal this 26th February, 1831.

GIDEON CASTLE. [L. s.]

Witness,
ARCH'D CAMPBELL.

B.

MARTIN MITCHELL, *called by the applicant and sworn, says*, he is a resident of the town of Amenia, in the county of Dutchess, where, and in the town of Washington, a town adjoining, he has resided since the peace of 1783. He will be 85 years old in October next; was a soldier in the revolutionary war; knew Robert Gipson before he went into the army and while in the army; Gipson lived in the town of Dover, Dutchess county, when he enlisted. Witness lived about three miles from Gipson; knew him several years before he went into the army, and he had often played ball with him. Gipson belonged to Capt. Marvin's company, and Col. Van Courtland's regiment. Witness enlisted after Gipson into Capt. Hallett's company, in the same regiment. Witness enlisted for during the war, and was in the service a good while before Gipson died. He thinks Gipson died in 1778. He knew one brother of Gipson who lived in what was called the Oblong, in the town of Amenia, and followed his trade as a weaver. His name was Isaiah, and he was younger than Robert. Did not know any other brother or sister of Robert Gipson, nor did he ever know that Robert was ever married or had any children. Isaiah Gipson married Pamela Scott, but witness did not know that they had but one child, a son by the name of Orremel Gipson. Orremel is not now living. Isaiah has been dead now, five, six, or seven years. On reflection he says Isaiah died thirty-seven or eight years ago, and Orremel about five, six, or seven years ago; was intimately acquainted with Orremel, but not so intimate with him as with Isaiah. Thinks he is older

than Isaiah, and that Robert was some considerable older than witness.

Cross-examined.—Was born in Dutchess county; cannot say where Robert Gipson was born; he came into that neighborhood. Thinks Isaiah was born in the same neighborhood in Dutchess county where witness was born. Robert was 30 years old when he first knew him; may be three or four and thirty; does not and never did know where Robert came from; never knew his father or mother, or any thing of his parents. He meant to say that Orremel and not Isaiah was born in his neighborhood; does not know where Isaiah was born; thinks he and Robert came into that town about the same time; they were both weavers; never heard him or Isaiah say where they came from; they were this country people. Witness went with Gen. Montgomery to Canada, and saw him after he was wounded. The next campaign he joined McDougal's regiment in New-York, and they retreated to White-Plains, and in the fall he was again discharged. The next year he enlisted into Van Courtland's regiment, and then he found Robert Gipson in Capt. Marvin's company; he died out of that company; cannot tell how old Robert was when he enlisted, but he thinks he was about thirty. Robert never married to the knowledge of witness; he was older than Isaiah; thinks Isaiah married after the war. Witness married as soon as he got out of the service, and Isaiah married, he thinks, soon after he did. Isaiah married Pamela Scott; thinks her father lived in Dover, three or four miles from witness; knew very little of her parents, thinks he has seen her father; does not know what became of the widow of Isaiah; thinks Isaiah died in Kent or Washington, in the State of Connecticut. Orremel Gipson lived and died in Connecticut. Isaiah lived a very little time after the war in Dutchess county, when he moved off to Connecticut. Orremel was born in this State. How old Orremel was when his father moved to Connecticut, or whether he was grown up to be a young man, he cannot say. He never saw Orremel while he lived in Connecticut. Witness was over in Connecticut and heard of his death five or six years ago. Witness recollects Orremel when he was a stripling or youngster. Isaiah died over in Connecticut.

Examined by the Attorney-General, says, Isaiah Gipson removed to Connecticut in a little time after he was married; that he never saw him after he went to Connecticut, but he often heard of him as a great weaver. Does not know that Mr. Scott, the father of Pamela Scott, moved away after Pamela was married to Isaiah Gipson, nor does he know whether her parents are living, or what has become of them. Witness lived four or five miles from Isaiah Gipson from the time he was married until he moved to Connecticut. He cannot say where Robert Gipson died, and he was not with him when he died, nor did he see his corpse, but he infers he died in the army, because he was not present when they were discharged. Witness served in Van Courtland's regiment during the war, and was discharged after the peace. He was discharged at New-Windsor. He thinks Robert died on the march when they were going to take Lord Cornwallis, but he kept no journal, and cannot tell the time or place.

C.

Interrogatories to be administered to Jacob Chamberlain, Rowe, Winegar, Beardsley, Prudence Stevens, Juda McDore, and Daniel Castle, witnesses, all or any of whom at the election of Gideon Castle, to be produced, sworn and examined on the part and behalf of Gideon Castle, in a certain case depending before the Commissioners of the Land-Office, by virtue of an act of the Legislature of the State of New-York, entitled "An act for the relief of Gideon Castle," passed February 4, 1831, the said Castle having made his election to have his claims under said act decided by the Commissioners of the Land-Office, and the said Commissioners having made an order that the testimony of any or all of the above named persons, at the election of the said Castle, may be taken on interrogatories by and before William Eno, Esquire, of the town of Pine-Plains, in the county of Dutchess, and State of New-York, the said interrogatories to be reduced to writing with the privilege to the Attorney-General of adding cross-interrogatories, and the testimony taken thereupon, to be reduced to writing, forwarded forthwith by the said William Eno, Esquire, to the Commissioners of the Land-Office, together with these interrogatories.

1. Did you ever know Robert Gipson, Isaiah Gipson, and Orremel Gipson, or either, and which of them, and how long, and when, and where were they or either of them residing when you knew them, and what was their occupation? Declare.

2. Do you know whether Robert Gipson was a soldier in the revolutionary army? if yea, when and where did he enlist, and into whose company and regiment, and for what period, and when and where did he die? Declare.

3. Do you know whether Robert Gipson had any brothers or sisters? if yea, what were their names; was Isaiah Gipson a brother of Robert Gipson? Declare.

4. Do you know whether Robert Gipson ever was married? if yea, when, where and to whom? Declare.

5. Do you know whether Robert Gipson, Isaiah Gipson, or Orremel Gipson, or either of them, are now living? if yea, which of them, and where does he reside? Declare.

6. Do you know whether Isaiah Gipson was ever married? if yea, when, where and to whom was he married, and how many children did he have, and what were their names, and is his, the said Isaiah's widow living, and where does she reside, and has the said Isaiah any children now living.

7. If you were ever acquainted with Orremel Gipson, where, when and how long did you know him, and where did he reside, who was his father, what was his mother's maiden name, when and where was she married, had Orremel any brothers or sisters? if yea, what were their names, and are any or either of them now living?

8. If you know of any other fact going to show that Orremel Gipson was the nephew of Robert Gipson, a soldier who died in the army of the revolution, and that Robert Gipson had but one lawful

heir, to wit : a brother named Isaiah, and that the said Orremel was the only lawful heir of the said Isaiah, declare the same fully and at large as if you had been particularly interrogated thereto.

D.

Cross interrogatories to be administered to witnesses to be examined on the part of Gideon Castle under the recent act for his relief.

Rules of proceeding.

1. The witnesses are to be examined on the interrogatories and cross-interrogatories only, and not to be questioned by the parties.

2. Neither party, counsel or agent are to be present on the examination of the witness, nor until the deposition shall have been subscribed and sworn.

3. The witness must answer fully every question put, and all that may be material in the answers must be inserted in the affidavit : The affidavit must be subscribed and sworn, and annexed to the direct and cross interrogatories.

4. The officer may ask such questions as may be necessary for obtaining full and perfect answers to all the subjects of inquiry, and to ascertain the witness' means of knowledge, whether he speaks from observation, hearsay or the like.

5. The officer will annex to the affidavits a certificate that these regulations were complied with in relation to each of the witnesses examined.

Cross-interrogatories.

1. What is your age, where was you born, where do you now reside, and how long have you lived there ?

2. Where were Robert Gipson and Isaiah Gipson, or either of them born, and how do you know that fact ? Where did you first see either of them ; where did they come from when they came into the county of Dutchess ; were they foreigners or Americans, and did they come from the southern States or from New-England ? Did you ever see or know their father or mother, or know where either father or mother lived, and how did you learn that fact ?

3. Did you ever see either of the brothers or sisters of Isaiah Gipson, and where did you see them. Was Robert a brother to Isaiah, and how did you learn that fact ; did you know any thing about the family connections of Robert Gipson, and by what means, and at what time did you come to that knowledge ?

4. Did Robert and Isaiah both come into Dutchess county about the same time, or which came first ; when was it that they came there ; about how old was Robert at that time, and how old was Isaiah ; what were their occupations ; did you at that period ever hear of such a thing as a curious weaver who was not a foreigner ?

5. How old was Robert Gipson when he went into the army, and how old was Isaiah at that time ; who did Robert marry, and how

long was he married before he went into the army ; did he not marry Miss Patience Hoskins ; how many children did he leave when he died ; where did they remove to ?

6. Where did Isaiah Gipson reside during the war ; was he in the army, and how long ; did you ever see him after the peace, and where was it ; where did he live after the war ; how long did he stay in the State of New-York after peace ; was it one or two years, and where did he then go to live ; did you ever see him after that time, and how many times, and where was it ?

7. Did you ever know a girl by the name of Pamela Scott, where did she live ; what was her father's name, and where did he live ; did she not marry Job Pray, and when was it ; where did she live after the death of her husband ; have you seen her since the revolutionary war ; or have you seen or known any thing of her since that time ?

8. Did one of Pamela Scott's daughters learn the tailors trade, or keep school in Dutchess county ; who did she marry ?

9. Was Isaiah married before, or during, or after the war ; where did he live at that time. How long after he was married before he removed to Connecticut, and to what part of the State did he go, how many children did Isaiah have before he removed to Connecticut, and how old was his first child at that time ; did you ever see either of Isaiah's children, and what one was it ; have you ever seen any child of Isaiah since he removed from Dutchess county, and where and when was it ?

10. Where and when did you ever see or remember Gipson ; was he ever in Dutchess county, to your knowledge, and when was it ; how old was Orremel when you last saw him ; do you know what his mother's name was, and where does she or her relatives live ; or where did they live when you knew them ?

11. Are you in any way related to Robert or Orremel Gipson, and how ; do you know any thing about either of them of your own knowledge, or only by hearsay ; is Orremel dead or alive, and where do his brothers and sisters live ; do you know them, or either of them ?

12. Has any body been lately talking with you, or asking you about the Gipson's, and who was it ?

(E.)

STATE OF NEW-YORK, }
Dutchess County, } ss.

Jacob Chamberlain, being duly sworn, says, that he is sixty-eight years of age, born in the town of Amenia, county of Dutchess ; now resides in the town of Amenia, county aforesaid, and has lived in said town upwards of forty years in the whole. Knew Robert Gipson, Isaiah Gipson and Orremel Gipson ; knew Isaiah when he was a young man, before he was married, and a number of years after ; knew Robert some years, but not so long as Isaiah ; and knew Orremel from

the time he was born until he was five or six years of age, as near as this deponent can recollect; cannot tell the year or time he knew them, but it was when they were younger men. Has known both Robert and Isaiah in Kent, State of Connecticut, and also in Amenias, county of Dutchess; knew Orremel only in Kent: says that Robert and Isaiah were weavers. Understood by general reputation at the time he knew Robert, that he went into the revolutionary army: That at the time this deponent knew Robert and Isaiah, it was always understood they were brothers; were generally reputed as such, and does not know that they had any other brothers or sisters, never heard that they had; does not know that Robert was ever married; does not know that either Robert, Isaiah or Orremel are now living; knows that Isaiah Gipson was married when he was a young man, to Pamela Scott: that he was familiarly acquainted with Pamela Scott before she was married; had lived at his father's house, and was well acquainted with both of them after they were married: that they lived together as man and wife, and were reputed as such; knows that they had one child by the name of Orremel, but did not know that they had any other; thinks they were married in Amenias, near the Connecticut line; knew Orremel only in Kent, then living with his parents: thinks it was during the war that deponent knew Isaiah and Robert, or about that time; says that Mr. Herrick has lately talked with this deponent about the Gipseons, but did not ask him in particular about them.

his
JOHN M CHAMBERLAIN.
mark.

Subscribed and sworn, this 9th }
day of March, 1831, before me, }

WILLIAM ENO, Commissioner of deeds for Dutchess county.

STATE OF NEW-YORK, }
Dutchess County, } ss.

Lois Wingar, being duly sworn, says, that she is seventy-eight years of age; born in the town of Sharon, State of Connecticut; now resides in the town of Amenias, county of Dutchess, and has there lived fifty-eight years: That she knew Robert Gipson and Isaiah Gipson: first knew them about fifty-eight years ago; Robert was then living at William Mitchells, in town of Amenias, county of Dutchess; and Isaiah was then living in Connecticut, thinks town of Sharon, near town of Kent, in the house of Ebenezer Hatch: knows that Robert was a weaver, and had wove for this deponent, and understood that Isaiah was a weaver: knew that Robert and Isaiah were brothers; that they so called themselves and were known and reputed as such; that this deponent knew them at least two years, and thinks she knew them longer, but is not positive: does not know that they had any other brothers or sisters: Robert was not married when this deponent knew him, does not know that he ever was: says that Isaiah was married; saw him and a person who was called his wife, at a wedding, a short time after it was said

he was married, and that they lived together as man and wife: that she understood at the time, they were married in the fall; that he was married to Pamela Scott; that she was personally acquainted with Pamela Scott before she was married, but did not know any of her connexions except her sister Polly Scott: says that Isaiah had one child after his marriage to Pamela, and thinks his name was called Orremel; has seen the child which she thinks was called Orremel, when a babe, but never after: does not know which came first to Dutchess county, knew Robert first, and soon after was acquainted with Isaiah, had seen him before he was married: that Robert and Isaiah were young men at the time this deponent knew them, should think between twenty and thirty; says that they were called curious weavers at the time she knew them; were generally supposed to be foreigners, but does not know whether Robert and Isaiah were or not; that Robert was a very good weaver: that it was about the time of the war that this deponent knew them; does not know whether either were in the army or not: does not know whether Robert ever lived in Connecticut or not; that Isaiah was back and forth across the line of Connecticut frequently; that when he lived in Connecticut, he lived near the line, and this deponent lived near the line: has heard that Pamela lived in Kent after the death of her husband, but is not personally acquainted with the fact: does not recollect of ever seeing either Isaiah, Robert or Orremel after the war, or any other time than as before stated: thinks that Isaiah's child was born in Connecticut, but is not positive; does not know that he ever had any other children; says that Mr. Gideon Castle has lately asked her about the Gipsons, whether she recollected them or not.

LOIS WINGAR.

Subscribed and sworn, this 8th day
of March, 1831, before me,

WILLIAM ENO, *Commissioner*
of Deeds for Dutchess County.

STATE OF NEW-YORK, }
Dutchess County. } ss.

Ruth Beardslee being duly sworn, says, that she is eighty-three years of age, born in the town of Kent, State of Connecticut, now resides in the town of Amenia, county of Dutchess, and has there resided nineteen years; knew Isaiah Gipson, in Kent, when this deponent was a young woman; knew him before and after he was married, and knew him after this deponent was married; cannot tell precisely how long she knew him, but knew him when he was a youth, and after he had a family; thinks he lived principal part of the time in Kent when she knew him, that Isaiah was by trade a weaver. Says that she knew they had a son called Orremel Gipson; says that Isaiah was married, and that he married Pamela Scott; that she knew them both before they were married; that they lived together as man and wife, and has frequently been to their house when they lived together; that they were married when the deponent was young, but thinks she was married before they

were; says that she knew they had two children, one by the name of Orremel, and another who she thinks was a boy, who was an idiot, and ~~the~~ he died when young; cannot say that Orremel, the son of Isaiah, had any other brothers or sisters than the one before mentioned, who died in the life time of Orremel; always understood that Isaiah was an American; has known the mother of Isaiah, knew her in Kent, was personally acquainted with her; that she knew Isaiah during the war, and that then he resided in Kent, as this deponent believes; that she only knew Pamela Scott, in Kent, nor any thing of her family connexions; that after her husband's death she lived in Kent; says Thomas Barlow, Esquire, has lately asked her if she knew the Gipsons.

RUTH BEARDSLEE.

Subscribed and sworn this 8th day
of March, 1831, before me,

WILLIAM ENO, Commissioner of deeds for county of Dutchess.

STATE OF NEW-YORK, }
Dutchess County. } ss.

Juda Vandoruss, being duly sworn, says that she is about one hundred years of age; born in Easthaven, Connecticut; now resides in the town of Kent, State of Connecticut; has lived there about eight years: That she knew Robert Gipson and Isaiah Gipson; knew him two or three years; they then lived in the town of Amenia, county of Dutchess; and knew Isaiah Gipson to be a weaver—heard it said at the time: That she knew Robert; that he enlisted in the revolutionary army: Knows that Robert and Isaiah called themselves brothers, and were so always called: Knows that Isaiah Gipson was married, thinks about fifty years ago, to Pamela Scott; that they lived together as married people: That she knew Robert, Isaiah, and his wife Pamela, about fifty years ago; understood that they were Americans—that they were so called. Says that she never knew that Robert had any other brother than Isaiah, nor of any other of the family connexion. Does not know whether Robert and Isaiah came into Dutchess county together, but knew them both at the same time; that they were young people at the time she first knew them, and that Isaiah was then courting Pamela Scott, whom he afterwards married. Does not know whether Robert was a weaver or not, nor whether he was ever married: That it was during the war that she knew Robert and Isaiah; never saw them after: Knew that Pamela Scott lived at Doctor Chamberlain's; heard it said that she lived in Kent after her husband's death: That after he was married, (that is Isaiah,) he moved away, but does not know where. Says that a young man has been lately talking to this deponent about the Gipsons, but has not heard his name.

her

JUDA X VANDORUSS,
mark.

Subscribed and sworn, this 7th day
of March, 1831, before me,
WILLIAM ENO, Commis's'r, &c. }

I do hereby certify, that I have personally examined Ruth Beardslee, Lois Wingar, Juda Vandoruss and Jacob Chamberlain : That the regulations laid down in the caption of the cross interrogatories, in relation to each witness, were complied with : That I asked each witness every question put down on the direct and cross interrogatories herewith annexed, and inserted in each affidavit every thing that the witness answered that was material, and every question put was fully answered.

WILLIAM ENO, *Commissioner, &c.*

Pine-Plains, March 10, 1831.

F.

At a meeting of the Commissioners of the Land-Office of the State of New-York, at the Secretary's office, March 19, 1831 :

PRESENT,

EDWARD P. LIVINGSTON, *Lieutenant-Governor.*

GEORGE R. DAVIS, *Speaker of the Assembly.*

AZARIAH C. FLAGG, *Secretary.*

SILAS WRIGHT, JUNIOR, *Comptroller.*

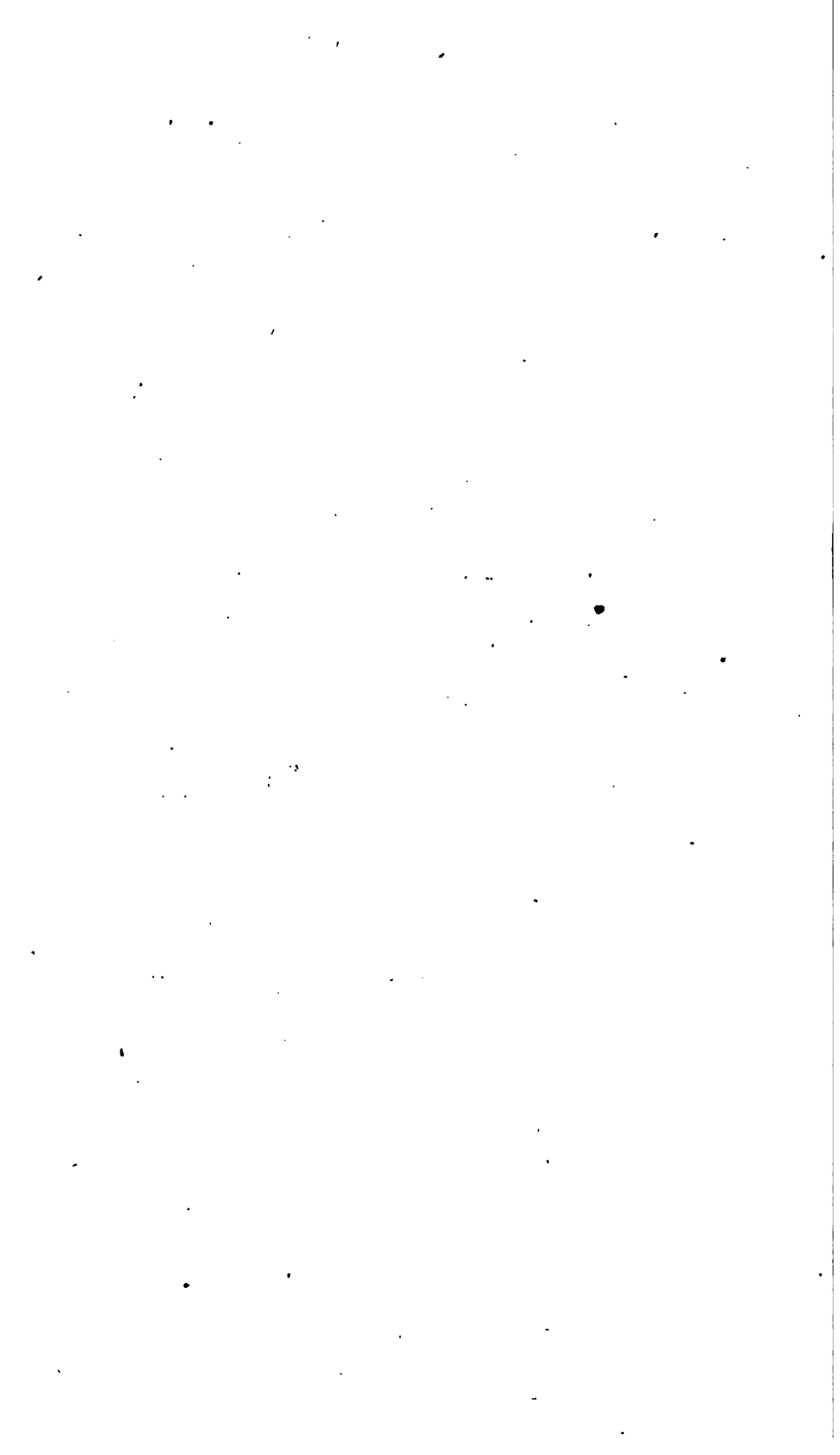
SIMEON DE WITT, *Surveyor-General.*

GREENE C. BRONSON, *Attorney-General.*

ABRAHAM KEYSER, *Treasurer.*

Gideon Castle having applied to the Commissioners of the Land-Office, under and in pursuance of the act entitled "An act for the relief of Gideon Castle," passed February 4th, 1831 ; and having elected to submit his claim under the said act, to the inquiry and determination of the Commissioners of the Land-Office ; and the said Commissioners having heard all the proofs and allegations of the said Gideon Castle, and upon full deliberation had thereon :

Resolved, That it has not been satisfactorily proved to this Board, that the said Gideon Castle, in the year one thousand eight hundred and twenty, had lawful title in fee to the fifty-six acres of land mentioned in the first section of the aforesaid act, derived from Robert Gipson the patentee ; and that the said claim be, and the same is hereby disallowed.



IN ASSEMBLY,

April 4, 1831.

REPORT

**Of the committee on banks and insurance companies,
on the petition of the president, directors and com-
pany of the City Bank of New-York.**

Mr. Gansevoort, from the committee on the incorporation and alteration of the charters of banking and insurance companies, to whom was referred the petition of the president, directors and company of the City Bank of New-York,

REPORTED—

That it appears from the said petition and a certificate verified by the affirmation of the president and the oath of the cashier of the said corporation, herewith presented, that between the evening of the 19th and the morning of the 21st of March last, the banking house of the petitioners was entered by false keys, and its vaults robbed of the sum of \$248,764; of which sum \$185,738 have since been recovered, and that by the said robbery the capital of the said company has been impaired upwards of sixty thousand dollars.

Your committee represent that the law enacted during the present session of the Legislature, passed 29th January last, renewing the charter of the said corporation, requires as a condition, that its capital stock of eight hundred thousand dollars should be whole and entire, at the time of filing the assent, which is limited to the first day of July next; and as the petitioners are apprehensive that they may not be enabled to recover their property in time to meet the requirements of that law, it is the opinion of your committee that legislative aid ought to be promptly extended to the petitioners, by authorising a reduction of the capital stock of the said corporation.

Your committee therefore recommend the passage of a law to that effect, and have directed their chairman to ask leave to introduce a bill.

THEORY

The theory of the present work is based on the assumption that the system of equations (1) can be solved for the unknown functions u_i and v_i in the form of a power series in the small parameter ϵ .

Let us assume that the functions u_i and v_i can be expanded in the form of a power series in the small parameter ϵ as follows:

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IN ASSEMBLY,

April 4, 1831.

REPORT

Of the committee on so much of the Governor's message as relates to poor laws and insane paupers, on the report of the Secretary of State, giving an abstract of the returns of the poor in the several counties, and the report of the committee of the last Legislature on the New-York Hospital and Asylum.

Mr. Potter, from the select committee on so much of the Governor's message as relates to the poor laws and insane paupers, to whom was referred the report of the Secretary of State, giving an abstract of the returns of the superintendents of the poor in the several counties; and the report of the special committee appointed by the last Legislature to investigate the affairs of the Hospital in the city of New-York, and the Asylum connected therewith,

RESPECTFULLY REPORTS :

That they have examined the said reports above referred to them, in the order herewith presented, duly impressed with the peculiar interest which the several subjects contained in the said reports present for their consideration.

The abstract report of the Secretary of State to the present Legislature, furnishes renewed evidence that our present system of laws, in relation to the support of the poor, are both wise and salutary : that wherever the poor-house system has been carried into effect, the result has shown, that while the situation of the special objects of its care has been extensively and gradually ameliorated, the

system of economy with which it is conducted has kept equal pace in a state of progressive improvement.

From the above mentioned report your committee feel gratified to collect facts to make the following statement: That while the population of this State, since the year 1824, has increased more than 360,000, the number of paupers in 1830 is less by 3,973 (including all, occasional and permanent,) than in the year 1824, and the whole expense to the State in supporting such paupers is less this year than in the year 1824, by \$290,330.

And it is with feelings of exultation and pride that your committee are able to state, that the two principal causes of pauperism, viz: ignorance, and the corrupting and destroying vice of intemperance, are now in a state of gradual and progressive removal—the former by the provisions of a bill now pending before the present Legislature, which provides for the instruction of the unfortunate poor, to whom your committee fondly anticipate that the feelings of philanthropy and the hand of relief will be extended,—and the latter by the moral power and omnipotent voice of public opinion.

For a minute and statistical detail of the number of paupers who are now the objects of legislative care and protection, your committee beg leave to refer to the above mentioned report of the Secretary of State, (Assembly Documents, 1831, No. 66,) as it would be but a repetition to insert them again in this document.

Your committee cannot conclude their report on this branch of the subject referred to them, without recommending the adoption of the following provisions to the bill now pending in this House, to wit:

1st. To make it obligatory on the board of supervisors (in those counties where it has not already been done) to abolish the distinction between town and county poor; and

2d. To authorise the Secretary of State to collect and cause to be printed in pamphlet form, all the statutes in force on this subject, and direct a distribution to the several officers who are required to execute their provisions.

The first provision, your committee believe, would introduce not only a better system of economy and discipline among the poor, but would produce an equality of treatment, promote the peace and happiness, and elevate the moral character of this unfortunate class of

persons. That such wholesome and desirable regulations would, in the opinion of your committee, more probably be adopted in extensive institutions, by an officer selected by the board of supervisors for his humane and benevolent feelings and character, than in the narrow and contracted course too often pursued by the petty tyrants of a single town, who have no other quality to recommend them to the exercise of the authority committed to them, than that which arises from a temporary calculation of dollars and cents

The second provision recommended by your committee would enable all those engaged in the care and management of the poor, to become familiar with the laws under which they are called to act, without being subjected to the expense of our whole system of statute laws.

With the adoption of the above provisions, and such others as shall from time to time be found necessary, and as future legislatures shall, in the exercise of the best feelings of their benevolence, think proper to engraft upon this philanthropic and judiciously arranged system of charity, we may reasonably anticipate that its benign influence will gradually continue, not only to lighten our burthens in affording relief to these objects of public munificence, but will shed new lustre upon the character and liberality of our republican institutions.

In approaching that branch of duty referred to us, which relates to the lunatic and insane, and which is more the peculiar province of your committee to notice, and upon which we are called to act, not only by repeated executive recommendations, but by the strongest appeal to our sympathies and the most compassionate claims upon our benevolence and philanthropy, we feel a due sense of the weighty and fearful responsibility of entering upon its discharge.

Gratifying as it is to our feelings, while in the discharge of our legislative duties, to be earnestly engaged in ameliorating the condition of, and dispensing the blessings of christian charity to, this most afflicted and unfortunate class of our fellow-citizens; yet your committee have to regret that they could not present their views upon this interesting subject at an earlier day of the present session, owing chiefly to their not having been able to collect the necessary information in relation to these claims upon our charity, and determine upon the expediency and propriety of granting relief, until receiving the report of the special committee appointed by the last Legislature to investigate this subject.

Your committee find themselves relieved from the discharge of a most laborious duty, by the very elaborate report of the special committee (above mentioned) to the present Legislature, (Assembly Documents, No. 263.) This committee, after a most thorough investigation into the affairs of the New-York Hospital, and the Asylum connected therewith; into the economy and management of its funds; its present condition and prospects; the utility and benefits which have followed from the liberal patronage extended to these humane institutions; show satisfactorily that the bestowment of this useful charity has been attended with the most important and gratifying results, a few of which only will be noticed here, as we desire to avoid repetition. And it is but justice to say, that we cannot too urgently press upon the attention of this House, the attentive perusal of the very interesting document above referred to. This document, which is drawn up with that distinguished ability which is characteristic of its author, shows, in the discharge of this duty, the performance of a laborious task, a deep research into the character and treatment of the disease, the improvements which have from time to time been made of its curative nature, and presents us with a condensed history of the humane and enterprising efforts which are making not only in our sister States, but in foreign nations, for the relief of this benighted portion of our fellow-beings; all of whom acknowledge it to be the duty of government to administer relief to the mental sufferings of this class of poor.

Although it appears by the above mentioned report of the special committee, that the institutions located at Bloomingdale, are "among the most splendid and useful of human charities—of great public utility—that they deserve and have received the most liberal patronage of the State; yet that economy and convenience were not sufficiently consulted in their erection;" that they are now, however, honestly, prudently, and judiciously managed, and that their situation commands many superior advantages. And your committee concur with them in opinion, "that however much we may now regret the want of economy in the erection of this establishment, still we believe it would be a violation of faith in the State, and injurious to the interests of humanity, to withhold the payment of the annuity now granted to them."

Liberal as this State has been in the dispensation of its charities to those who have been dependant on its bounty, its munificent arm has not yet been extended to this class of our fellow beings who are thus doubly destitute and unfortunate; first, in bearing the calamity

of being deprived of those rare endowments of Providence, reason and reflection, those faculties which distinguish man from the rest of creation, and elevate him above the beasts of the field, the loss of which deprives him that gift of Divinity, the stamp and image of his maker, and converts him into an object of dread and terror; and secondly, in consequence of his poverty and friendless situation, in being compelled to submit to the ordinary provisions of the poor-house, a rigid confinement to prevent his committing injuries upon others, a state which recent discoveries and developments in the curative treatment of this disease show, is above every other calculated to plunge him still deeper into a state of melancholy degradation; makes still darker the gloom which envelopes his intellect, gradually confirms the disease, and render more uncertain the chance of a restoration to society. Nor does the Bloomingdale Asylum, with all its advantages, its endowments and patronage, extend any relief to this description of miserable beings, who are unconscious of their own situation, and with no friend to plead for their release but the volunteers in the cause of humanity, the benevolent, and the philanthropist.

According to the best calculations which can be made from our present statistics, there are now in this State about 1,100 lunatics, of which only 350 have the means of supporting themselves; the remaining 750 must be town or county paupers, or supported by the charity of their friends. By this calculation, allowing the expense of each pauper lunatic to be only \$52 annually, or one dollar per week, the whole amount of their support would then be to the State the sum of \$59,000 every year, and by the present mode of treatment of this unfortunate class of citizens, upon the poor-house system, this expense would be likely to continue during their lives; whereas, concurring as we do in the recommendation of the special committee in the report referred to us, we have the strongest reasons to believe, that if the State should adopt the humane and benevolent policy of erecting one commodious State Asylum for the reception and cure of this class of insane poor, sufficient to accommodate about one-half of the present number, while it would relieve the several counties from the present burthen of supporting them directly, it would extend the blessings of christian charity to these too long neglected objects of our compassion, illuminate their darkened understandings, return to their anxious and afflicted friends those who have been shunned and avoided as outcasts, and restore to society many of its once most valued and useful members. And it is not

the least gratifying intelligence with which your committee are furnished by this report, that it is susceptible of demonstration, that this afflictive malady which was once considered incurable, in 90 of 100 recent cases, by a proper and judicious course of treatment, a perfect cure can be effected. And considered solely as a system of economy, your committee have no doubt that the plan above recommended would be well worthy the attention of the State. As on the restoration to reason of any one of its number would cease the burthen of his support, and make room for some other to enjoy its blessings.

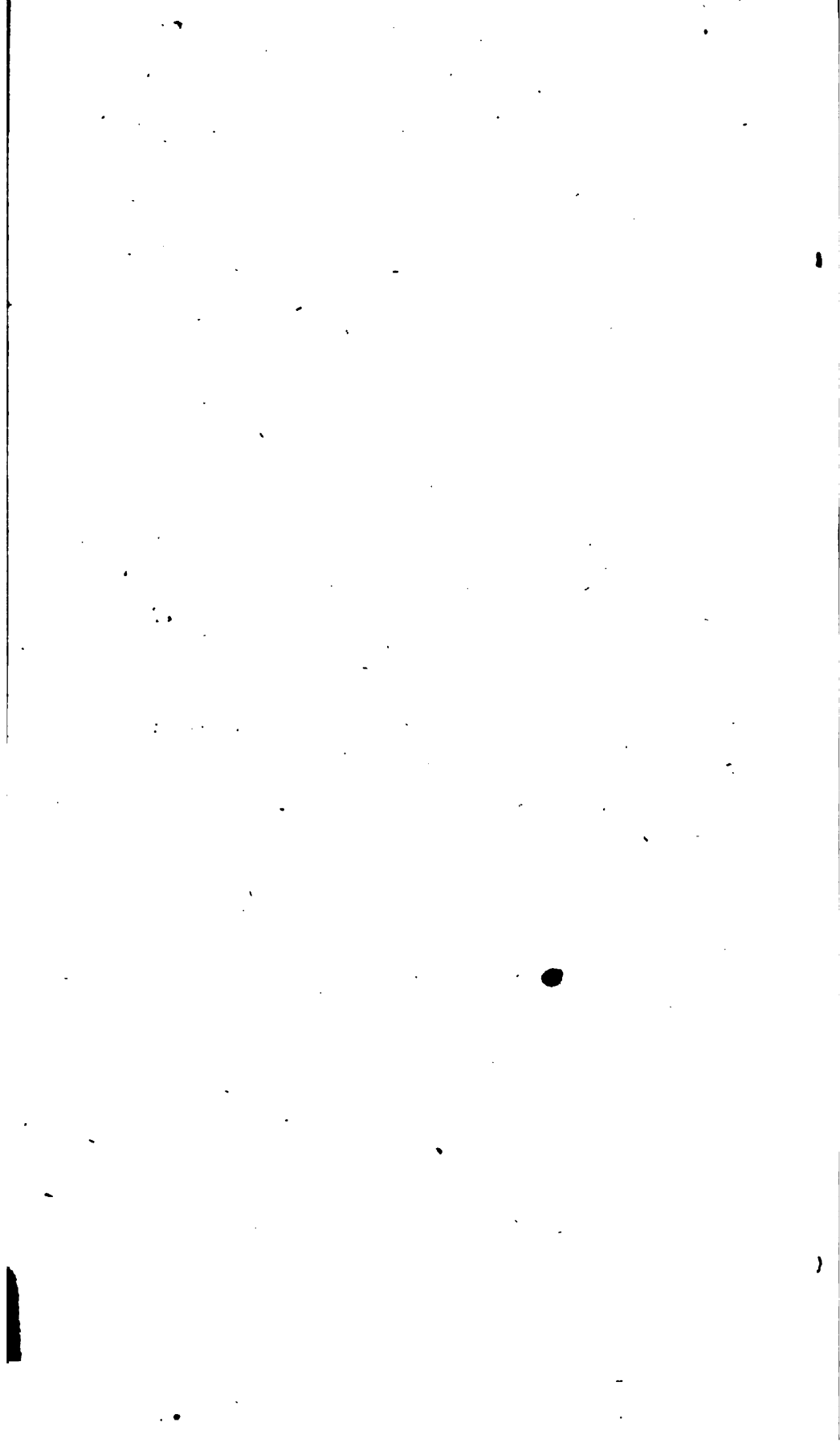
Many other advantages are enumerated in the report above referred to, to which your committee are indebted not only for the reason of the policy here recommended, but mostly for the information, and in a great degree for the ideas herewith submitted, which advantages we concur in believing would result by concentrating the patronage of the state in one institution, such as extending equal advantages to all this class of afflicted ; possessing the means of procuring physicians, superintendents and officers, distinguished for their philanthropy, benevolence, humane character and eminent and experienced in the treatment of the disease, who would devote their whole attention to, and exert their best energies for the relief of these unfortunate objects of their care. And also, the advantages which it would afford to the medical profession, which as the special committee remark, " This department of knowledge is yet comparatively in a state of infancy. There are extensive regions yet unexplored, and we are called upon by all the considerations of duty and humanity, to give every possible encouragement to men of science, to advance the noble art of treating insanity to still greater perfection." And in accordance with these views, your committee would recommend to the Hospital in the city of New-York, to abolish that regulation which imposes upon every medical student the payment of \$10 a year for the privilege of visiting that institution.

Assuming it then as a settled principle that government is bound to provide for and extend its parental care over every class of its poor, and when this duty is urged by the most eloquent appeals to our sympathies, which the deplorable situation of this afflicted portion of our poor, who are unable to plead for their own relief or express their own wants, present to us, your committee cannot hesitate for a moment most earnestly to recommend that the legislature should promptly and efficiently aid with its exertions this commendable enterprise.

As a diversity of opinion will no doubt exist as to the proper site, location and plan of the building, your committee have thought proper not to fix upon either, but leave those questions to a judicious set of commissioners to be appointed by the Legislature, or by the voice of the Legislature themselves. We cannot, however, but express our convictions that the Wakefield plan accompanying the report of the special committee, or the plan furnished by Dr. Samuel White, Superintendent of the Lunatic Asylum at Hudson, and which accompanies this report, or one which shall partake of and combine the advantages of both, is decidedly preferable : The expense of the former is calculated not to exceed the sum of \$88,500 ; and that of the latter, \$68,000 ; either one of which is calculated to accommodate 350 patients.

Before concluding this report, however, your committee feel called upon to express their acknowledgments to Dr. Samuel White, of Hudson, for the interest he has taken in this benevolent cause, for his kindness, and the very valuable and interesting information furnished by him of the benefits arising from the improved system of treating this malady, and the advantages of humanity and kindness, over that of force and severity, in the treatment of these patients. Dr. White has the superintendence of a private Asylum recently established, with accommodations for about 50 patients, erected on a fine elevation above the Hudson, commanding an extensive view and many beautiful prospects ; having had his attention particularly directed to the care and treatment of persons laboring under this dreadful malady for a great number of years, with a high professional reputation, a sound and discriminating mind, he seems eminently qualified to discharge the duties of superintendent of such an institution. And we feel it our duty to recommend to the superintendents of county poor-houses throughout the State, the economy of sending recent cases of this malady to the Hudson Asylum ; and thereby relieve their counties from expense, by a cure which may reasonably be anticipated. And also as well worthy the attention of the Legislature, until more general and extensive means are provided, to try the experiment of sending a certain number of subjects from each senate district, at the expense of the State, to this institution.

In accordance with the more general views contained in this report, your committee have prepared a bill, and directed their chairman to ask leave to introduce the same.



IN ASSEMBLY,

March 9, 1831.

REPORT

Of the committee on canals and internal improvements, on the petition of Darius Eggleston.

Mr. Turrill, from the committee on canals and internal improvements, to which was referred the petition of Darius Eggleston,

REPORTED—

The petitioner represents that in 1817 he entered into a contract with the Canal Commissioners, to construct sections No. 21 and 22, of the Erie canal, in the town of Sullivan, being about two and a half miles in length; that "in the progress of this work he met with many unforeseen difficulties and much hard digging not expected by him or the said commissioners." It also appears from his petition, that after the said sections had been completed, he received the amount of his contract, and also what he calls "a partial allowance for extra labor on said job;" but this allowance was not, in his opinion, on adequate compensation for the unforeseen difficulties with which he had to contend. The petitioner further represents that he made about three thousand yards of embankment on section No. 22, for which he received no compensation, the engineer having by mistake omitted it in his estimate.

The petitioner applied to the legislature in 1829 for relief; his petition was referred to the Canal Board, and their report thereon will be found in the Journals of the Assembly of that year, Docu-

[A. No. 306.]

ment No. 161. It appears from that report of the Canal Board, that in 1819, when this contract was finally closed, the Canal Commissioners were authorised to make equitable allowances to contractors, in cases where they should think such allowances proper and merited. "The petitioner claimed the exercise of this discretion of the Commissioners, and it was extended to him. After the work had been finished, Benjamin Wright, Esq. the then acting engineer upon that part of the canal, made an estimate of the value of the work exceeding the contract prices for the same by the sum of \$1,651.07." "This excess was mostly produced by extra allowances per yard upon excavation, in consequence of its having been more difficult or of a different character from that contemplated by the parties to the contract."

This extra allowance and the full contract price of the work, was paid to the petitioner, and he gave a receipt in full upon the bottom of the said engineer's corrected estimate of the work, which bears date the 8th day of November, 1819.

Several affidavits of individuals who worked on the job, under the petitioner, have been produced to the committee; these affidavits state that there was a large quantity of hard pan on the job, the cost of excavating which exceeded the amount allowed by the engineer. It is also stated in these affidavits, that the petitioner made three or four thousand yards of embankment on section No. 22.

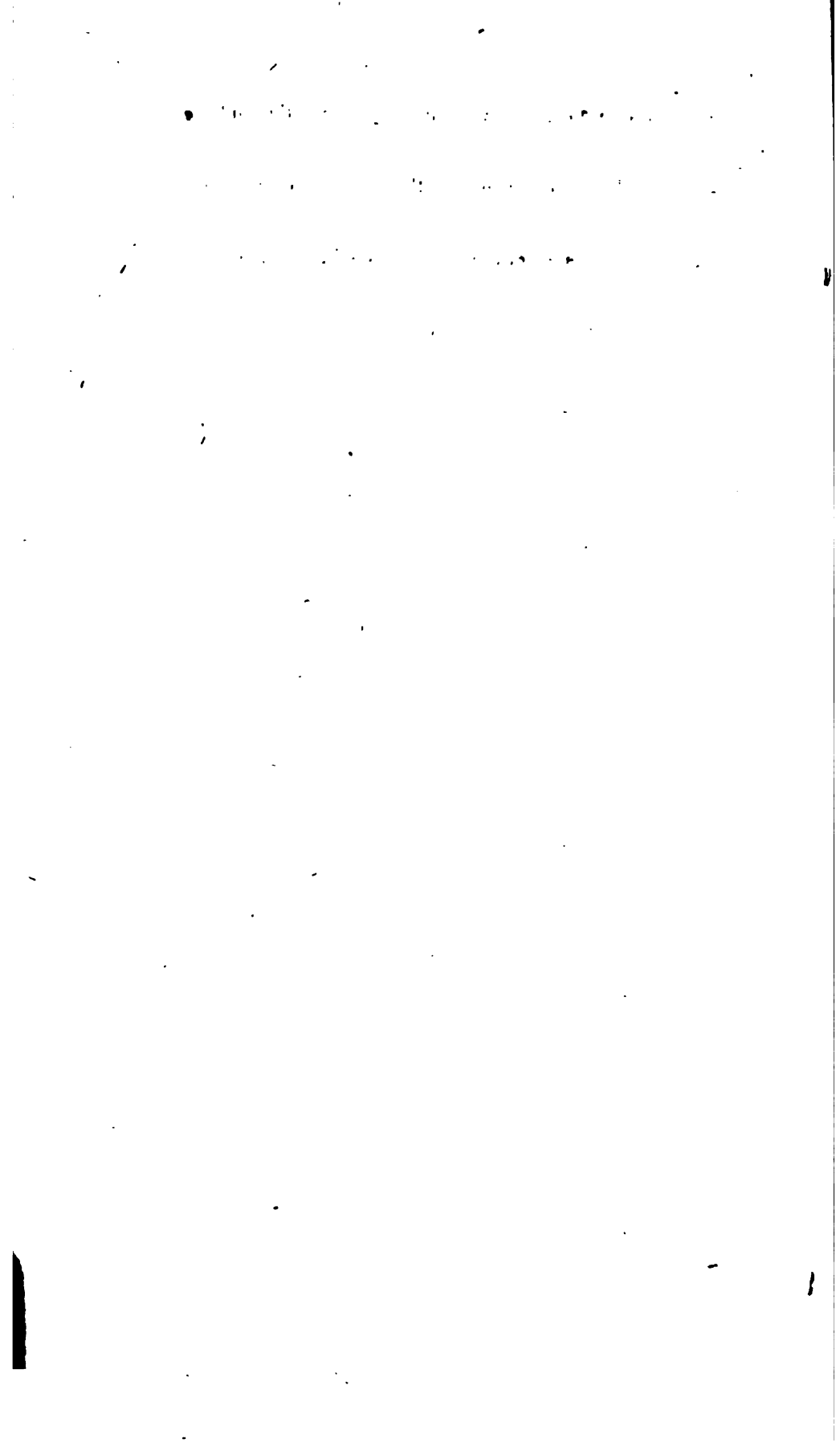
These affidavits were made from the recollection of witnesses, eleven years after this work had been finished and a final settlement made with the Commissioners, and your committee are satisfied that this testimony is not sufficient to warrant them in disturbing a settlement, which was made on the estimate of a competent engineer, who examined the work at the time, and with all the facts and circumstances before him, allowed to the petitioner such compensation beyond the prices stipulated in the contract, as he believed to be just and equitable.

It was expressly agreed in the contract, that Mr. Wright should inspect the work and estimate the number of yards of excavation and embankment, and that his estimate should be final and conclusive between the parties. Your committee are satisfied that Mr. Wright's estimate was correct, and that the petitioner has received a just and

equitable compensation for his services in constructing the said sections.

Your committee therefore recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.



IN ASSEMBLY,

April 1, 1831.

MEMORIAL

Of Samuel White, praying for aid to the Hudson Lunatic Asylum.

To the Honorable the Legislature of the State of New-York, in Senate and Assembly convened.

Your memorialist, Samuel White, of the city of Hudson, respectfully solicits the attention of your honorable body to an Asylum which he has established in the city of Hudson, for the protection, comfort and restoration of the insane.

The *Hudson Lunatic Asylum* was instituted in the summer of 1830, under circumstances of deep and peculiar interest to the founder. It was considered that such an institution was wanted in this section of the State. He, therefore, entered with more alacrity upon so bold an enterprise, believing that the public would justify him in the laborious undertaking. In this he has not, as yet, been disappointed, having already effected as much, and treated as many patients as are reported to have entered similar establishments the first year, and those under the patronage of the States in which they are located.

The print accompanying this memorial, is an accurate representation of the entire front of this Asylum. It is located on an eminence looking into the fourth avenue and centre of the city, and though distant but 600 feet from the principal thoroughfare of business, yet it is entirely secluded from its bustle and noise. Hence the constant change and variety of objects to attract and interest; and hence the advantage of one of the best markets for all necessary supplies, without any expense of transportation.

The building, which is of granite stone, is 120 feet in length, the centre portion 40 feet square, the wings 40 by 20, with a well finished basement under the whole. In the stories above the basement are 30 windows in front, and 30 corresponding in rear; the whole forming a perfect observatory; the front taking a full range of the Catskill mountains, also overlooking the city with an extensive southern aspect; the rear commanding also an extensive view of the river and adjacent country.

For ready access by water, beauty of location, and salubrity of air, it cannot be surpassed.

The building is surrounded by cultivated gardens, in the rear of which is a spacious court for exercise.

In its internal arrangement, the building is divided and subdivided by halls, one-half of which is devoted exclusively to males, and the other to females. Neat and well ventilated apartments are fitted up for 50 patients, in which every care has been taken that nothing should offend the eye or disturb the imagination. To this end, spring fastenings are substituted for locks; cast-iron sashes are so adapted as to elude the observation of the visitor; a due proportion of the rooms are warmed by heated air; every variety of baths provided, and every facility given for daily exercise. In a word, mechanical ingenuity has been exerted to promote the security, comfort and restoration of its inmates.

Thus far, the proprietor has advanced this institution without pecuniary embarrassment. He now finds his own means for improvements exhausted, and believes it to be important, to provide outward for the more furious, and some extension of grounds for the advantages of labour and exercise; also to enable him to extend its benefits to those who must be excluded from the participation of them, unless the aid solicited of your honorable body be granted, and without which, they must become a burthen to the respective towns in which they reside, and that too, without the hope of recovery.

Your memorialist had embarked his all in this enterprise, prior to the message of his excellency, calling the attention of the last Legislature to this important subject. From the success which has already attended his efforts in the improvement and restoration of those committed to his care, your petitioner feels justified in expressing

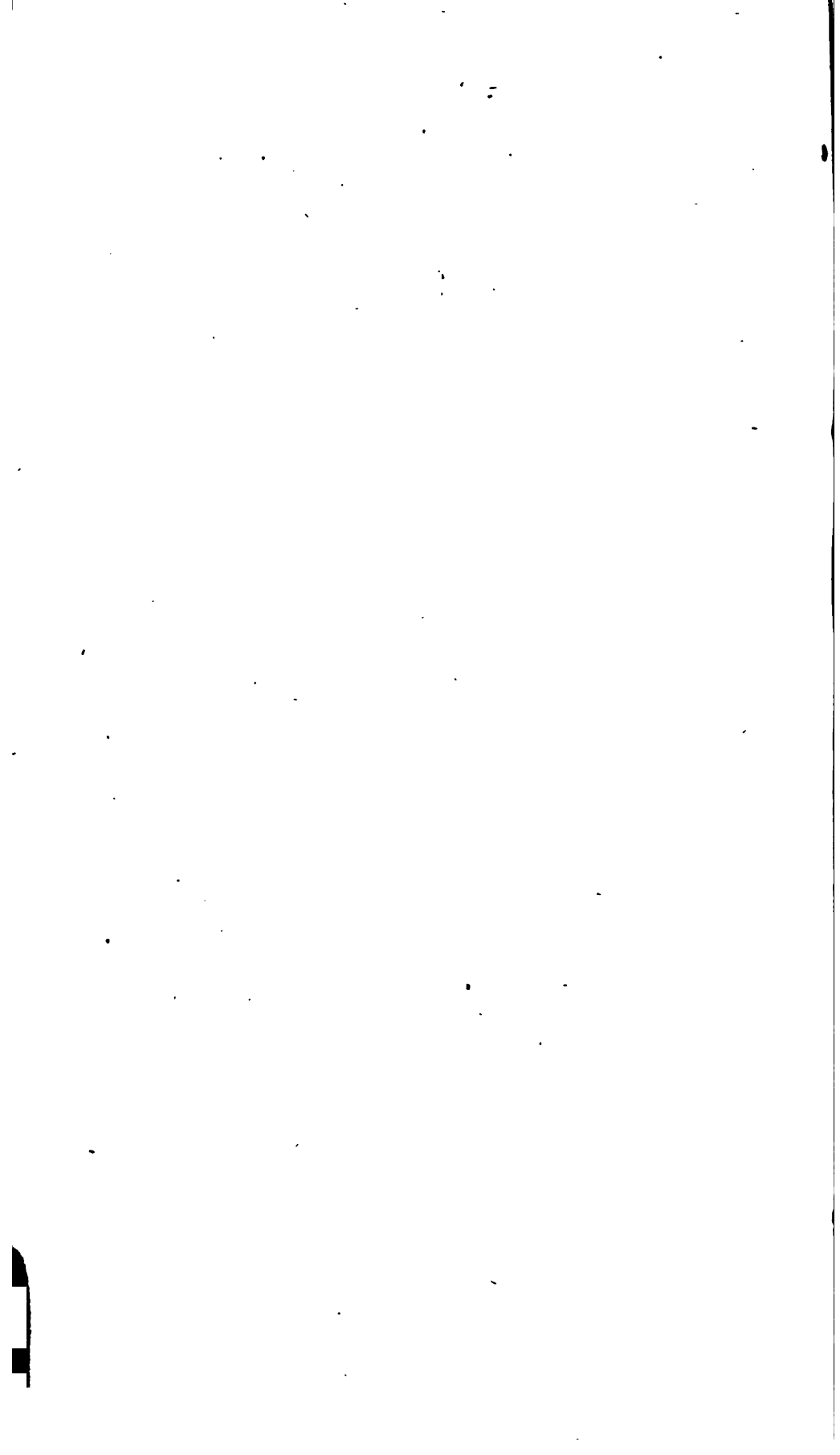
his full conviction, that if you in your wisdom deem it expedient to grant the aid solicited, that he will be enabled to make the *Hudson Lunatic Asylum* a most desirable retreat, in which economy and usefulness will be combined in alleviating the sufferings of this long neglected portion of community.

As your petitioner will ever pray.

SAMUEL WHITE, M. D.

Proprietor of the Hudson Lunatic Asylum.

Hudson, March, 1831.



IN ASSEMBLY,

April 5, 1831.

CENSUS

OF THE STATE OF NEW-YORK,

FOR THE YEARS 1825 AND 1830.

STATE OF NEW-YORK,

IN ASSEMBLY, February 28, 1831.

Resolved, That the Clerk of this House be directed to procure, and cause to be printed, for the use of this House, the returns of the last Census taken by authority of the United States.

By order,

F. SEGER, Clerk.

CENSUS.

[The Towns marked with an asterisk, have been erected since the Census of 1825.]

COUNTY OF ALBANY.

Towns.	Population.		Towns.	Population.	
	1825.	1830.		1825.	1830.
Albany city,	15,971	24,216	Rensselaerville, ..	3,462	3,689
Barn,	3,509	3,605	Watervliet,	3,574	4,965
Bethlehem,	5,643	6,092	Westerlo,	3,346	3,319
Coeymans,	2,666	2,723			
Guilderland,	2,428	2,742			
Knox,	2,222	2,186			
			Total,	42,821	58,537

COUNTY OF ALLEGANY.

Towns.	Population.		Towns.	Population.	
	1835.	1880.		1835.	1880.
Alfred,	1,160	1,416	Friendship,	1,129	1,502
Allen,	726	898	Genesee,*		219
Almond,	1,378	1,804	Grove,*		1,388
Amity,*		872	Haight,	377	655
Andover,	404	598	Hume,	607	951
Angelica,	1,008	998	Independence, ...	570	877
Belfast,	560	743	Nunda,	2,871	1,291
Birdsall,*		543	Ossian,	1,419	812
Bolivar,	303	449	Pike,	1,532	2,016
Burns,*		702	Portage,*		1,839
Caneadea,	550	782	Rushford,	803	1,115
Centerville,	763	1,195	Scio,	757	602
Cuba,	670	1,059			
Eagle,	577	892			
			Total,	18,164	26,218

COUNTY OF BROOME.

Chenango,	2,882	3,716	Union,	1,674	2,122
Colesville,	1,774	2,389	Vestal,	794	948
Conklin,	635	908	Windsor,	1,927	2,175
Lisle,	3,615	4,393			
Sanford,	692	931	Total,	13,893	17,582

COUNTY OF CATTARAUGUS.

Ashford,	275	631	Machias,*		737
Cecilus,*		378	Napoli,	443	852
Connewango,	1,105	1,712	New-Albion,*		380
Ellicottville,	380	626	Olean,	404	561
Farmersville,	636	1,005	Otto,	601	1,224
Franklinville,	523	903	Perrysburgh,	1,262	2,440
Freedom,	935	1,505	Randolph,*		776
Great-Valley,	378	647	Yorkshire,	856	823
Hinsdale,	383	919			
Little-Valley,	462	336	Total,	8,643	16,726
Lyndon,*		271			

COUNTY OF CAYUGA.

Auburn,	2,982	4,486	Owasco,	1,326	1,350
Aurelius,	2,289	2,767	Scipio,	2,702	2,691
Brutus,	4,098	1,827	Sempronius,	5,371	5,705
Cato,	1,407	1,781	Sennet,*		2,297
Conquest,	1,069	1,507	Springport,	1,607	1,528
Fleming,	1,507	1,461	Sterling,	1,081	1,436
Genoa,	2,756	2,768	Venice,	2,530	2,445
Ira,	1,778	2,198	Victory,	1,563	1,819
Ledyard,	2,280	2,427			
Locke,	2,925	3,310	Total,	42,743	47,947
Mentz,	3,472	4,144			

COUNTY OF CHAUTAUQUE.

Towns.	Population.		Towns.	Population.	
	1825.	1880.		1825.	1880.
Arkwright,*		926	Hanover,	2,620	2,614
Busti,	1,187	1,680	Harmony,	926	1,988
Carroll,*		1,015	Mina,	558	1,318
Charlotte,*		886	Pomfret,	3,188	3,386
Chautauque,	1,423	2,432	Portland,	1,989	1,771
Cherry-Creek,* ..		574	Ripley,	1,821	1,647
Clymer,	304	567	Sheridan,*		1,666
Ellery,	1,207	2,001	Stockton,	927	1,604
Ellicott,	1,653	2,101	Villanova,	855	1,126
Ellington,	824	1,279	Westfield,*		2,476
French-Creek,* ..		420			
Gerry,	1,157	1,110	Total,	20,639	34,687

COUNTY OF CHENANGO.

Bainbridge,	2,772	3,040	Oxford,	2,801	2,947
Columbus,	1,723	1,744	Pharsalia,	895	987
Coventry,	1,485	1,576	Pitcher,*		1,214
German,	1,498	884	Plymouth,	1,591	1,591
Greene,	2,628	2,962	Preston,	1,224	1,213
Guilford,	2,393	2,634	Sherburne,	2,493	2,574
Lincklaen,	1,527	1,425	Smithville,	1,733	1,829
Macdonough,	1,044	1,232	Smyrna,	1,580	1,897
New-Berlin,	2,511	2,643			
Norwich,	3,349	3,774	Total,	34,215	37,404
Otselic,	968	1,238			

COUNTY OF CLINTON.

Beekmantown, ..	1,511	2,391	Peru,	3,996	4,949
Champlain,	1,824	2,456	Plattsburgh,	3,753	4,913
Chazy,	2,396	3,097	Saranac,	263	316
Ellenburgh,*					
Mooers,	743	1,222	Total,	14,486	19,344

COUNTY OF COLUMBIA.

Ancram,	3,126	1,533	Hillsdale,	2,389	2,446
Austerlitz,	2,247	2,245	Hudson city,	5,004	5,392
Canaan,	3,048	2,064	Kinderhook,	2,471	2,706
Chatham,	3,522	3,538	Livingston,	1,988	2,087
Claverack,	2,970	3,038	New-Lebanon,	2,628	2,693
Clermont,	1,146	1,203	Stuyvesant,	1,889	2,331
Copake,	1,639	1,675	Taghkanick,	1,693	1,654
Gallatin,*		1,588			
Germantown,	920	967	Total,	37,970	39,952
Ghent,	2,290	2,790			

COUNTY OF CORTLAND.

Towns.	Population.		Towns.	Population.	
	1885.	1890.		1885.	1890.
Cincinnatus,	1,057	1,308	Solon,	1,781	2,033
Cortlandville,* . . .		3,573	Truxton,	3,325	3,868
Freetown,	877	1,051	Virgil,	3,317	3,912
Homer,	6,128	3,306	Willet,	580	840
Marathon,	873	895			
Preble,	1,327	1,435			
Scott,	1,006	1,452			
			Total,	20,271	23,693

COUNTY OF DELAWARE.

Andes,	1,808	1,859	Masonville,	851	1,145
Bovina,	1,248	1,346	Meredith,	1,521	1,655
Colchester,	1,153	1,424	Middletown,	2,115	2,383
Davenport,	1,661	1,780	Roxbury,	2,944	3,214
Delhi,	2,654	2,114	Sidney,	1,137	1,410
Franklin,	2,397	2,775	Stamford,	1,595	1,597
Hampden,	935	1,210	Tompkins,	1,547	1,774
Hancock,	649	766	Walton,	1,567	1,672
Harpersfield,	1,952	1,936			
Kortright,	2,766	2,873	Total,	29,565	32,933

COUNTY OF DUTCHESS.

Amenia,	2,167	2,389	Pine-Plains,	1,421	1,503
Beekman,	2,808	1,584	Pleasant-Valley, . . .	2,506	2,419
Clinton,	2,069	2,130	Poughkeepsie, . . .	5,935	7,223
Dover,	2,198	2,198	Redhook,	2,735	2,983
Fishkill,	6,916	8,292	Rhinebeck,	2,798	2,938
Hydepark,	2,415	2,554	Stanford,	2,463	2,521
La Grange,	2,415	2,044	Union-Vale,*		1,833
Milan,	1,769	1,886	Washington,	2,796	3,036
Northeast,	1,596	1,689			
Pawling,	1,691	1,705	Total,	46,698	50,926

COUNTY OF ERIE.

Alden,	793	1,257	Eden,	862	1,066
Amherst,	1,308	2,489	Erie,	1,375	1,926
Aurora,	1,727	2,421	Evans,	770	1,185
Boston,	992	1,520	Hamburgh,	2,661	3,348
Buffalo,	5,141	8,653	Holland,	1,001	1,070
Clarence,	2,465	3,353	Sardinia,	951	1,414
Colden,*		464	Wales,	1,183	1,500
Collins,	1,627	2,120			
Concord,	1,460	1,924	Total,	24,316	35,710

COUNTY OF ESSEX.

Towns.	Population.		Towns.	Population.	
	1825.	1880.		1825.	1880.
Chesterfield,	1,154	1,671	Newcomb,*		62
Crownpoint,	1,728	2,041	Schroon,	1,190	1,614
Elizabethtown, ...	1,029	1,015	Ticonderoga,	1,833	1,996
Essex,	1,288	1,543	Westport,	1,322	1,513
Jay,	1,216	1,729	Willsborough,	1,166	1,316
Keene,	707	787	Wilmington, ...	637	695
Lewis,	1,101	1,305			
Minerva,	371	358			
Moriah,	1,251	1,742			
			Total,	15,993	19,387

COUNTY OF FRANKLIN.

Bangor,	910	1,076	Fort-Covington, ..	2,136	2,901
Brandon,*		316	Malone,	1,633	2,207
Chateaugay,	1,384	2,016	Moir,		791
Constable,	1,016	693	Westville,*		619
Dickinson,	899	446			
Duane,*		247			
			Total,	7,978	11,312

COUNTY OF GENESEE.

Alabama,*		783	Gainesville,	1,482	1,820
Alexander,	1,893	2,331	Le Roy,	2,973	3,909
Attica,	1,915	2,485	Middlebury,	2,086	2,415
Batavia,	3,353	4,271	Orangeville,	1,202	1,525
Bennington,	1,463	2,217	Pembroke,	3,153	3,831
Bergen,	1,342	1,508	Perry,	2,396	2,792
Bethany,	2,088	2,374	Sheldon,	1,248	1,731
Byron,	1,720	1,939	Stafford,	2,416	2,367
Castile,	1,592	2,259	Warsaw,	2,089	2,474
China,	1,466	2,387	Weathersfield, ...	815	1,179
Covington,	2,444	2,716			
Elba,	1,770	2,679			
			Total,	40,906	51,992

COUNTY OF GREENE.

Athens,	2,038	2,425	Hunter,	1,467	1,960
Cairo,	2,642	2,912	Lexington,	2,221	2,548
Catskill,	4,085	4,861	New-Baltimore, ..	2,171	2,370
Coxsackie,	3,028	3,373	Windham,	2,993	3,472
Durham,	3,180	3,039			
Greenville,	2,404	2,565			
			Total,	26,229	29,525

COUNTY OF HAMILTON.

Hope,	696	718	Wells,	265	340
Lake-Pleasant, ...	235	266			
			Total,	1,196	1,324

COUNTY OF HERKIMER.

Towns.	Population.		Towns.	Population.	
	1825.	1880.		1825.	1880.
Columbia,	2,180	2,181	Norway,	1,168	1,152
Danube,	3,275	1,723	Russia,	2,174	2,456
Fairfield,	2,535	2,265	Salisbury,	1,779	1,999
Frankfort,	2,148	2,620	Schuyler,	1,936	2,074
Germanflatts,	3,065	2,466	Starks,*		1,781
Herkimer,	3,198	2,486	Warren,	2,077	2,084
Litchfield,	1,701	1,750	West-Brunswick, ..	515	713
Little-Falls,*		2,539	Winfield,	1,637	1,778
Manheim,	1,841	1,937			
Newport,	1,811	1,863	Total,	33,040	35,869

COUNTY OF JEFFERSON.

Adams,	2,415	2,995	Lyme,	2,565	2,863
Alexandria,	1,543	1,522	Orleans,	3,544	3,091
Antwerp,	2,257	2,412	Pamelia,	1,988	2,263
Brownville,	2,580	2,938	Philadelphia,	826	1,161
Champion,	2,028	2,341	Rodman,	1,719	1,901
Ellisburgh,	4,733	5,292	Rutland,	2,102	2,339
Henderson,	2,074	2,128	Watertown,	3,425	4,769
Hounsfield,	3,769	3,415	Wilna,	1,126	1,603
Le Ray,	2,556	3,420			
Lorraine,	1,400	1,712	Total,	41,650	48,580

COUNTY OF KINGS.

Brooklyn,	10,791	15,396	Gravesend,	408	565
Bushwick,	958	1,620	New-Utrecht,	982	1,217
Flatbush,	1,049	1,143			
Flatlands,	491	596	Total,	14,679	20,537

COUNTY OF LEWIS.

Brantingham,*		662	Pinckney,	664	783
Denmark,	1,989	2,270	Turin,	2,388	1,561
Diana,*		309	Watson,	693	909
Harrisburgh,	722	712	West-Turin,*		1,534
Loyden,	1,156	1,502			
Lowville,	2,107	2,334	Total,	11,669	14,958
Martinsburgh,	1,950	2,382			

COUNTY OF LIVINGSTON.

Avon,	2,301	2,362	Livonia,	2,417	2,665
Caledonia,	1,466	1,618	Mount-Morris, ...	1,896	2,534
Conesus,	1,356	1,690	Sparta,	3,289	3,777
Geneseo,	2,202	2,675	Springwater,	1,659	2,253
Graveland,	1,551	1,703	York,	2,176	2,636
Leicester,	1,772	2,042			
Lima,	1,775	1,764	Total,	23,860	27,719

COUNTY OF MADISON.

Towns.	Population.		Towns.	Population.	
	1825.	1830.		1825.	1830.
Brookfield,	4,284	4,367	Lenox,	4,326	5,039
Cazenovia,	3,860	4,344	Madison,	2,488	2,544
De Ruyter,	1,419	1,447	Nelson,	2,404	2,445
Eaton,	3,215	3,558	Smithfield,	2,553	2,638
Fenner,	1,933	2,017	Sullivan,	3,130	4,077
Georgetown,	1,044	1,094			
Hamilton,	2,931	3,220			
Lebanon,	2,059	2,249			
			Total,	95,646	39,037

COUNTY OF MONROE.

Brighton,	4,375	6,519	Penfield,	4,117	4,478
Chili,	1,827	2,010	Perrinton,	2,190	2,155
Clarkson,	2,620	3,251	Pittsford,	1,758	1,841
Gates,	4,191	7,484	Riga,	1,745	1,908
Greece,	1,547	2,574	Rush,	1,929	2,109
Henrietta,	2,145	2,302	Sweden,	2,327	2,938
Mendon,	2,777	3,075	Wheatland,	1,728	2,239
Ogden,	1,922	2,401			
Parma,	1,910	2,639			
			Total,	39,108	49,920

COUNTY OF MONTGOMERY.

Amsterdam,	3,207	3,354	Minden,	2,085	2,567
Broadalbin,	2,400	2,657	Northampton,	1,344	1,392
Canajoharie,	3,664	4,348	Oppenheim,	3,025	3,650
Charlestown,	2,102	2,148	Palatine,	4,072	2,745
Ephratah,*		1,818	Root,	2,806	2,750
Florida,	2,689	2,838	Stratford,	439	552
Glen,	1,975	2,451			
Johnstown,	7,359	7,700			
Mayfield,	4,329	2,614			
			Total,	39,706	43,594

CITY AND COUNTY OF NEW-YORK.

First ward,	9,929	11,327	Ninth ward, ...	10,956	22,752
Second ward, ..	9,315	8,202	Tenth ward, ...	23,932	16,438
Third ward, ...	10,801	9,649	Eleventh ward, ..	7,344	14,901
Fourth ward, ..	12,240	12,705	Twelfth ward, .	7,938	11,904
Fifth ward,	15,093	17,722	Thirteenth ward,*		12,655
Sixth ward, ...	20,061	13,447	Fourteenth ward,*		14,370
Seventh ward, .	14,192	15,863			
Eighth ward, ..	24,285	25,084			
			Total,	166,086	207,021

COUNTY OF NIAGARA.

Cambria,	2,239	1,712	Porter,	925	1,497
Hartland,	1,415	1,584	Royalton,	2,458	3,138
Lewiston,	1,255	1,528	Somerset,	569	871
Lockport,	3,007	3,823	Wilson,	475	913
New-Fane,	919	1,450			
Niagara,	1,807	1,401			
Pendleton,*		572			
			Total,	14,069	18,482

COUNTY OF ONEIDA.

Towns.	Population.		Towns.	Population.	
	1835.	1880.		1835.	1880.
Annsville,	1,161	1,481	Rome,	3,531	4,360
Augusta,	2,911	3,058	Sangersfield,	1,986	2,272
Boonville,	2,071	2,746	Steuben,	1,674	2,094
Bridgewater,	1,525	1,808	Trenton,	2,233	3,221
Camden,	1,598	1,945	Utica,	5,040	8,323
Deerfield,	3,331	4,182	Vernon,	2,807	3,045
Florence,	678	964	Verona,	2,845	3,739
Floyd,	1,537	1,699	Vienna,	1,479	1,766
Kirkland,*		2,505	Western,	2,190	2,419
Lee,	2,077	2,514	Westmoreland, ..	3,270	3,303
Marshall,*		1,908	Whitestown,	6,003	4,410
New-Hartford,* ..		3,599			
Paris,	6,810	2,765	Total,	57,847	71,326
Remsen,	1,070	1,400			

COUNTY OF ONONDAGA.

Camillus,	7,108	2,518	Otisco,	1,862	1,938
Cicero,	2,462	1,808	Pompey,	6,517	4,812
Clay,*		2,095	Salina,	3,833	6,929
Elbridge,*		3,357	Skaneateles,*		3,812
Fabius,	2,596	3,071	Spafford,	1,045	2,647
La Fayette,*		2,560	Tully,	1,390	1,640
Lysander,	2,279	3,228	Van Buren,*		2,890
Manlius,	6,005	7,365			
Marcellus,	7,045	2,626	Total,	48,432	58,974
Onondaga,	5,888	5,668			

COUNTY OF ONTARIO.

Bloomfield,	3,702	3,861	Naples,	1,576	1,943
Bristol,	2,717	2,952	Phelps,	4,740	4,799
Canadice,*		1,386	Richmond,	3,033	1,776
Canandaigua,	4,297	5,162	Seneca,	5,847	6,163
Farmington,	1,773	1,773	Victor,	2,164	2,265
Gorham,	2,957	2,977			
Hopewell,	2,158	2,202	Total,	37,422	40,170
Manchester,	2,656	2,811			

COUNTY OF ORANGE.

Blooming-Grove, .	2,258	2,099	Monroe,	3,186	3,671
Calhoun,	1,457	1,535	Montgomery,	3,712	3,887
Cornwall,	3,020	3,486	Newburgh,	6,168	6,424
Crawford,	2,018	2,019	New-Windsor, ...	2,255	2,310
Deerpark,	963	1,167	Walkill,	4,328	4,056
Goshen,	3,022	3,361	Warwick,	4,635	5,013
Hamptonburgh,* ..		1,365			
Minisink,	4,710	4,979	Total,	41,732	45,372

COUNTY OF ORLEANS.

Towns.	Population.		Towns.	Population.	
	1835.	1880.		1835.	1880.
Barre,	3,681	4,801	Ridgeway,	1,310	1,939
Carlton,	709	1,168	Shelby,	1,969	2,043
Clarendon,	1,912	2,025	Yates,	1,070	1,538
Gaines,	1,607	2,121			
Murray,	2,202	3,138	Total,	14,460	18,773

COUNTY OF OSWEGO.

Albion,	371	669	Oswego,	1,182	2,703
Amboy,*		669	Parish,*		968
Boylston,*		388	Redfield,	295	341
Constantia,	1,355	1,198	Richland,	1,989	2,733
Granby,	932	1,423	Sandy-Creek,	1,615	1,839
Hannibal,	1,340	1,794	Scriba,	1,071	2,073
Hastings,	870	1,494	Volney,	2,372	3,629
Mexico,	2,408	2,671	Williamstown, ...	986	606
New-Haven,	1,218	1,410			
Orwell,	741	501	Total,	17,875	27,104

COUNTY OF OTSEGO.

Burlington,	2,281	2,459	Oneonta,	1,031	1,759
Butternuts,	3,766	3,991	Otego,	1,527	1,148
Cherry-Valley, ..	3,874	4,098	Otsego,	3,917	4,363
Decatur,	1,061	1,110	Pittsfield,	908	1,005
Edmeston,	1,960	2,087	Plainfield,	1,636	1,626
Exeter,	1,588	1,690	Richfield,	1,893	1,752
Hartwick,	2,625	2,772	Springfield,	2,572	2,816
Laurens,	2,143	2,231	Unadilla,	1,905	2,313
Maryland,	1,749	1,834	Westford,	1,488	1,645
Middlefield,	2,832	3,323	Worcester,	2,210	2,093
Milford,	2,842	3,025			
New-Lisbon,	2,085	2,232	Total,	47,898	51,372

COUNTY OF PUTNAM.

Garmel,	2,192	2,376	Southeast,	1,890	2,042
Kent,	1,794	1,928			
Patterson,	1,572	1,536	Total,	11,865	12,701
Phillipstown,	4,418	4,816			

COUNTY OF QUEENS.

Flushing,	2,325	2,820	North-Hempstead, ..	2,827	3,062
Hempstead,	5,295	6,215	Oysterbay,	5,005	5,195
Jamaica,	2,401	2,376			
Newtown,	2,478	2,610	Total,	20,331	22,275

COUNTY OF RENSSELAER.

Towns.	Population.		Towns.	Population.	
	1885.	1890.		1885.	1890.
Berlin,.....	1,989	2,019	Pittstown,	3,746	3,709
Brunswick,	2,478	2,570	Sand-Lake,	3,426	3,651
Grafton,.....	1,593	1,681	Seaghtioke,	2,924	3,002
Greenbush,	2,914	3,216	Schodack,	3,506	3,796
Hosick,	3,431	3,582	Stephentown,	2,703	2,716
Lansingburgh, ...	2,423	2,663	Troy city,	7,859	11,605
Nassau,.....	2,935	3,254			
Petersburgh,	2,088	2,011	Total,	44,065	49,472

COUNTY OF RICHMOND.

Castletown,.....	1,786	2,204	Westfield,	1,443	1,734
Northfield,	1,984	2,171			
Southfield,	719	975	Total,	5,932	7,084

COUNTY OF ROCKLAND.

Clarkstown,	2,075	2,293	Ramapo,	2,379	2,837
Haverstraw,	2,026	2,306			
Orangetown,	1,536	1,947	Total,	8,016	9,388

COUNTY OF SARATOGA.

Ballston,	1,852	2,113	Milton,	2,746	3,079
Charlton,.....	1,912	2,023	Moreau,.....	1,613	1,690
Clifton-Park,*....		2,494	Northumberland, .	1,042	1,606
Concord,.....	790	758	Providence,	1,582	1,579
Corinth,	1,341	1,412	Saratoga,.....	2,010	2,461
Edinburgh,	1,590	1,571	Saratoga-Springs, .	2,054	2,204
Galway,	2,505	2,710	Stillwater,	2,552	2,601
Greenfield,	3,298	3,151	Waterford,	1,323	1,473
Hadley,	943	829	Wilton,	1,392	1,303
Halfmoon,	4,232	2,042			
Malta,	1,518	1,517	Total,	36,295	38,616

COUNTY OF SCHENECTADY.

Duanesburgh,	3,384	2,837	Rotterdam,	1,503	1,480
Glenville,	2,273	2,494	Schenectady city, .	4,668	4,258
Niskayuna,	506	446			
Princetown,	1,042	819	Total,	12,876	12,334

COUNTY OF SCHOHARIE.

Blenheim,	1,879	2,280	Middleburgh,	4,561	3,266
Broome,	3,111	3,161	Schoharie,	4,499	5,146
Carlsle,	1,638	1,748	Sharon,	4,214	4,247
Cobleskill,	2,765	2,988	Summit,	1,600	1,733
Fulton,*		1,592			
Jefferson,	1,669	1,743	Total,	25,926	27,904

COUNTY OF SENECA.

Towns.	Population.		Towns.	Population.	
	1825.	1830.		1825.	1830.
Covert,	3,833	1,791	Seneca-Falls,*....		2,603
Fayette,	3,140	3,316	Tyre,*		1,482
Lodi,*		1,786	Varick,*		1,890
Junius,.....	6,213	1,581	Waterloo,*		1,837
Ovid,.....	2,856	2,756			
Romulus,.....	4,137	2,089			
			Total,	20,169	21,031

COUNTY OF STEUBEN.

Addison,	554	944	Painted-Post,	2,646	974
Bath,	2,422	3,387	Prattsburgh,	1,865	2,399
Cameron,	553	924	Pulteney,	1,501	1,730
Canisteo,	604	620	Reading,	1,289	1,568
Cohocton,	2,143	2,711	Troupsburgh,	1,265	666
Danville,	1,489	1,728	Tyrone,	1,953	1,880
Erwin,*		795	Urbana,	966	1,288
Greenwood,*		852	Wayne,	865	1,172
Hornby,*		1,572	Wheeler,	882	1,389
Hornellsville,	834	1,364	Woodhull,*		501
Howard,	1,703	2,463			
Jasper,*		657			
Jersey,	1,780	2,391	Total,	25,004	33,975

COUNTY OF ST. LAWRENCE.

Brasher,	401	828	Madrid,	2,639	3,459
Canton,	1,898	2,440	Massena,.....	1,701	2,070
De Kalb,	766	1,061	Morristown,	1,723	1,618
Depau,*		668	Norfolk,	755	1,039
De Peyster,	787	814	Oswegatchie,	3,133	3,934
Edwards,*		693	Parishville,	959	1,479
Fowler,	1,671	1,447	Pierrepont,	558	749
Gouverneur,	1,267	1,552	Potsdam,	3,112	3,650
Hammond,*		767	Rossie,	1,074	650
Hopkinton,	884	827	Russel,.....	480	659
Lawrence,*		1,097	Stockholm,	1,449	1,944
Lishon,	1,474	1,891			
Louisville,	864	1,076	Total,	27,595	36,352

COUNTY OF SUFFOLK.

Brookhaven,	5,383	6,095	Smithtown,.....	1,677	1,686
Easthampton,	1,556	1,668	Southampton,	4,561	4,850
Huntington,	4,540	5,582	Southold,	2,459	2,900
Islip,	1,344	1,653			
Riverhead,	1,816	2,016	Total,	23,695	26,780
Shelter-Island, ...	349	330			

COUNTY OF SULLIVAN.

Towns.	Population.		Towns.	Population.	
	1825.	1890.		1825.	1890.
Bethel,	1,337	1,203	Nevisink,	1,679	1,258
Cocheecton,*		438	Rockland,	554	547
Fallsburgh,*		1,173	Thompson,	2,519	2,459
Liberty,	970	1,277			
Lumberland,	610	955			
Mamakating,	2,704	3,062	Total,	10,373	12,372

COUNTY OF TIOGA.

Barton,	585	972	Newark,	801	1,029
Berkshire,	1,404	1,683	Nichols,	951	1,283
Bigflatts,	826	1,149	Owego,	2,260	3,080
Cardor,	2,021	2,653	Southport,	1,114	1,454
Catharines,	1,424	2,064	Spencer,	975	1,253
Catlin,	1,105	2,015	Tioga,	991	1,413
Cayuta,	528	642	Veteran,	1,258	1,616
Chemung,	1,150	1,462			
Elmira,	1,915	2,962	Total,	19,951	27,706
Erin,	643	976			

COUNTY OF TOMPKINS.

Caroline,	2,128	2,633	Ithaca,	3,621	5,279
Danby,	2,372	2,481	Lansing,	4,158	4,020
Dryden,	4,822	5,206	Newfield,	2,392	2,664
Enfield,	2,000	2,332	Ulysses,	3,000	3,136
Groton,	3,458	3,597			
Hector,	4,957	5,212	Total,	32,908	36,545

COUNTY OF ULSTER.

Esopus,	1,520	1,770	Rochester,	2,227	2,420
Hurley,	1,283	1,408	Saugerties,	2,664	3,750
Kingston,	3,010	4,170	Shandaken,	960	966
Marbletown,	2,879	3,223	Shawangunk,	3,589	3,681
Marlborough,	2,364	2,372	Wawarsing,	1,964	2,738
New-Paltz,	4,704	5,105	Woodstock,	1,273	1,376
Olive,	1,520	1,636			
Plattekill,	3,058	2,044	Total,	32,015	36,559

COUNTY OF WARREN.

Athol,	809	909	Luzerne,	1,315	1,362
Bolton,	1,226	1,466	Queensbury,	2,759	3,080
Caldwell,	885	797	Warrensburgh, ...	1,130	1,191
Chester,	1,231	1,284			
Hague,	618	721	Total,	10,906	11,795
Johnsburgh,	933	985			

COUNTY OF WASHINGTON.

Towns.	Population.		Towns.	Population.	
	1825.	1880.		1825.	1880.
Argyle,	3,025	3,459	Hebron,	2,705	2,685
Cambridge,	2,163	2,319	Jackson,	1,817	2,054
Dresden,	532	475	Kingsbury,	2,359	2,606
Easton,	3,211	3,753	Putnam,	768	718
Fort-Ann,	3,020	3,201	Salem,	3,028	2,972
Fort-Edward,	1,642	1,816	White-Creek,	2,316	2,448
Granville,	3,543	3,882	Whitehall,	2,540	2,888
Greenwich,	3,134	3,850			
Hampton,	940	1,069			
Hartford,	2,537	2,420			
			<i>Total,</i>	39,280	42,615

COUNTY OF WAYNE.

Arcadia,	3,478	3,774	Rose,*		1,641
Butler,*		1,764	Savannah,	452	886
Galen,	2,935	3,631	Sodus,	2,496	3,528
Lyons,	3,068	3,603	Walworth,*		1,781
Macedon,	1,903	1,990	Williamson,	3,190	1,788
Marion,*		1,981	Wolcott,	3,893	1,085
Ontario,	2,732	1,587			
Palmyra,	2,613	3,434			
Port-Bay,*		1,082	<i>Total,</i>	26,761	33,555

COUNTY OF WESTCHESTER.

Bedford,	2,508	2,750	Poundridge,	1,414	1,437
Cortland,	3,385	3,840	Rye,	1,303	1,602
Eastchester,	931	1,030	Scarsdale,	321	317
Greenburgh,	2,001	2,195	Somers,	1,806	1,997
Harrison,	999	1,085	South-Salem,	1,504	1,537
Mamaroneck,	1,032	838	Westchester,	2,163	2,362
Mount-Pleasant, ..	3,799	4,932	White-Plains,	638	759
Newcastle,	1,367	1,336	Yonkers,	1,621	1,761
New-Rochelle, ...	1,201	1,274	Yorktown,	2,045	2,141
Northcastle,	1,543	1,653			
North-Salem,	1,195	1,276	<i>Total,</i>	33,131	36,456
Pelham,	265	334			

COUNTY OF YATES.

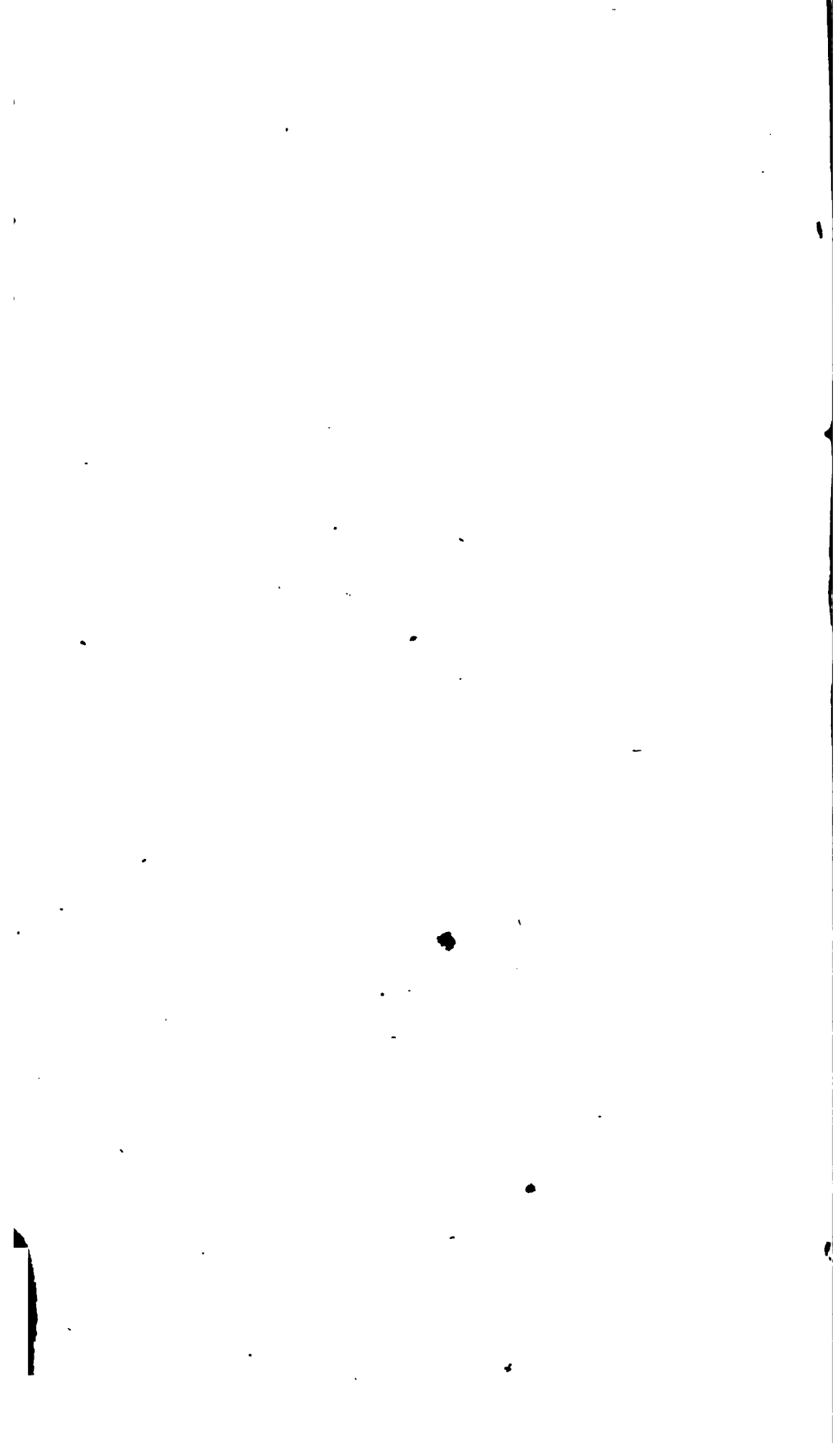
Barrington,	2,099	1,854	Milo,	3,278	3,620
Benton,	3,730	3,957	Starkey,	2,142	2,285
Italy,	995	1,092			
Jerusalem,	2,050	2,783	<i>Total,</i>	17,455	19,019
Middlesex,	3,161	3,128			

RECAPITULATION.

COUNTIES.	POPULATION.		INCREASE.
	1825.	1880.	
Albany,.....	42,821	53,560	10,639
Allegany,.....	18,164	26,218	8,054
Broome,.....	13,893	17,582	3,689
Cattaraugus,.....	8,643	16,726	8,083
Cayuga,.....	42,743	47,947	5,204
Chautauque,.....	20,639	34,687	14,048
Chenango,.....	34,215	37,404	3,189
Clinton,.....	14,486	19,344	4,858
Columbia,.....	37,970	39,952	1,982
Cortland,.....	20,271	23,693	3,422
Delaware,.....	29,565	32,933	3,368
Dutchess,.....	46,698	50,926	4,228
Erie,.....	24,316	35,710	11,394
Essex,.....	15,993	19,387	3,394
Franklin,.....	7,978	11,312	3,334
Genesee,.....	40,906	51,992	11,086
Greene,.....	26,229	29,525	3,296
Hamilton,.....	1,196	1,324	128
Herkimer,.....	33,040	35,869	2,829
Jefferson,.....	41,650	48,515	6,865
Kings,.....	14,679	20,539	5,860
Lewis,.....	11,669	14,958	3,289
Livingston,.....	23,860	27,719	3,859
Madison,.....	35,646	39,037	3,791
Monroe,.....	39,108	49,920	10,812
Montgomery,.....	39,706	43,594	3,888
New-York,.....	166,086	207,021	40,935
Niagara,.....	14,069	18,485	4,416
Oneida,.....	57,847	71,326	13,479
Onondaga,.....	48,435	58,974	10,539
Ontario,.....	37,422	40,167	2,745
Orange,.....	41,732	45,372	3,640
Orleans,.....	14,460	18,773	5,313
Oswego,.....	17,875	27,104	9,229
Carried forward,	1,084,030	1,317,595.	234,865

COUNTIES.	POPULATION.		INCREASE.
	1825.	1880.	
Brought forward,	1,084,030	1,317,595	234,865
Otsego,	47,898	51,372	3,474
Putnam,	11,866	12,701	835
Queens,	20,331	22,276	1,945
Rensselaer,	44,065	49,472	5,407
Richmond,	5,932	7,084	1,152
Rockland,	8,016	9,388	1,372
Saratoga,	36,295	38,616	2,321
Schenectady,	12,876	12,334	—542*
Schoharie,	25,926	27,904	1,978
Seneca,	20,169	21,031	862
Steuben,	25,004	33,975	8,971
St. Lawrence,	27,595	36,352	8,757
Suffolk,	23,695	26,780	3,085
Sullivan,	10,373	12,372	1,999
Tioga,	19,951	27,706	7,755
Tompkins,	32,908	36,545	3,637
Ulster,	32,015	36,559	4,544
Warren,	10,906	11,795	889
Washington,	39,280	42,615	3,335
Wayne,	26,761	33,555	6,794
Westchester,	33,131	36,476	3,345
Yates,	17,455	19,019	1,564
TOTAL,....	1,616,458	1,923,522	307,064

* Decrease.



IN ASSEMBLY,

April 6, 1831.

REPORT

Of the committee on colleges, &c. on the report of the Superintendent of Common Schools on the petition of the Trustees of School District No. 11.

Mr. Morehouse, from the committee on colleges, academies and common schools, to which was referred the report of the Superintendent of Common Schools on the petition of the trustees of school district No. 11, in the town of Farmington,

REPORTED—

That they have examined the communication of the Superintendent and the petition referred to therein ; that the application is distinctly for the imposing of a tax for a local and private purpose. No notice of the application has been given, and if granted, must be so in derogation of the provisions of the Revised Statutes relating to applications to the Legislature. The wisdom of the law requiring notice of such applications to be published, in a manner calculated to apprize the interested of the intention, is not impugned by any circumstances peculiar in the situation of the petitioners. On the contrary, it is a case which may be fairly cited as an example of the injustice which might flow from legislating upon such subjects with partial information, and as evidence of the knowledge and experience in which the caution of the law originated.

The law suits alluded to in the petition and report, between the trustees and the inhabitants of the district, their constituents, are much to be regretted ; and sensibly as the former may feel the burthen of expense incurred, from their restricted means to discharge the same, the committee apprehend that an allowance of the amount

asked for would have more the character of a premium upon litigation, than an indemnity for necessary and unavoidable cost.

The inhabitants of the district, whether colleagues or adversaries, have a right to be informed of the nature and extent of this application; and, if they had had such notice, it is incredible that those of the latter class would have silently submitted to become tributary to their antagonists. The committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

IN ASSEMBLY,

March 8, 1831.

REPORT

Of the committee on roads and bridges, on the petition of the inhabitants of the town of Windsor.

Mr. Juliand, from the standing committee on roads and bridges and the incorporation of turnpike companies, to whom was referred the petition of the inhabitants of the town of Windsor, and the adjacent towns in the county of Broome, praying for a donation of one thousand dollars from the state treasury to aid them in opening and improving a road therein described,

REPORTED :

That the petitioners represent their situation as secluded, and that in consequence of the bad state of the roads, in their vicinity, they are in a great measure excluded from the enjoyment of those facilities that have been afforded to other portions of the state, by means of roads and canals. They ask the legislature to grant them *one thousand* dollars from the state treasury on condition that those interested shall raise an equal amount, to be expended under the direction of commissioners to be appointed by the legislature for that purpose, to aid them in opening and improving a road from the line of the state of Pennsylvania, connecting with the Belmont turnpike, and thence to the Susquehannah river, and crossing the same at Windsor bridge, to continue westward through Stillson Hollow to the Newburgh road, about five miles from the village of Binghamton, a distance in all of about sixteen miles.

It is said that this route will shorten the distance four miles ; avoids all the principal mountains, and opens a direct communication with the Hudson and Delaware canal, through which the business of

this region is done to a great extent. It is also represented to your committee that the construction of this road would increase the population and enhance the value of property to a great degree in the region through which it is to pass.

Your committee have no doubt of the truth of the statements set forth by the petitioners, and duly appreciate the importance of granting facilities of transportation and intercourse to every portion of our State, but your committee do not come to the conclusion that the improvement contemplated, is of that general nature that would justify them in recommending an appropriation from the treasury.— They therefore recommend the adoption of the following resolution :

Resolved, That the committee be discharged from the further consideration of said petition.

IN ASSEMBLY,

March 10, 1831.

REPORT

Of the committee on claims on the petition of Amos Haskins.

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Amos Haskins, and the report of the Commissioners of the Land-Office thereon,

REPORTED—

The petitioner claims compensation for an alleged deficiency in a piece of land which he purchased of the State, and which was conveyed to him by metes and bounds. The report of the Commissioners of the Land-Office is so full and satisfactory, and shows so conclusively that this claim is altogether unfounded, that your committee can do nothing more than to adopt its reasoning and conclusion, which they do, unanimously, and recommend to the house the following resolution.

Resolved, That the prayer of the petition of Amos Haskins be denied.

IN ASSEMBLY,

March 10, 1831.

REPORT

Of the committee on claims, on the petition of Moses Cleveland.

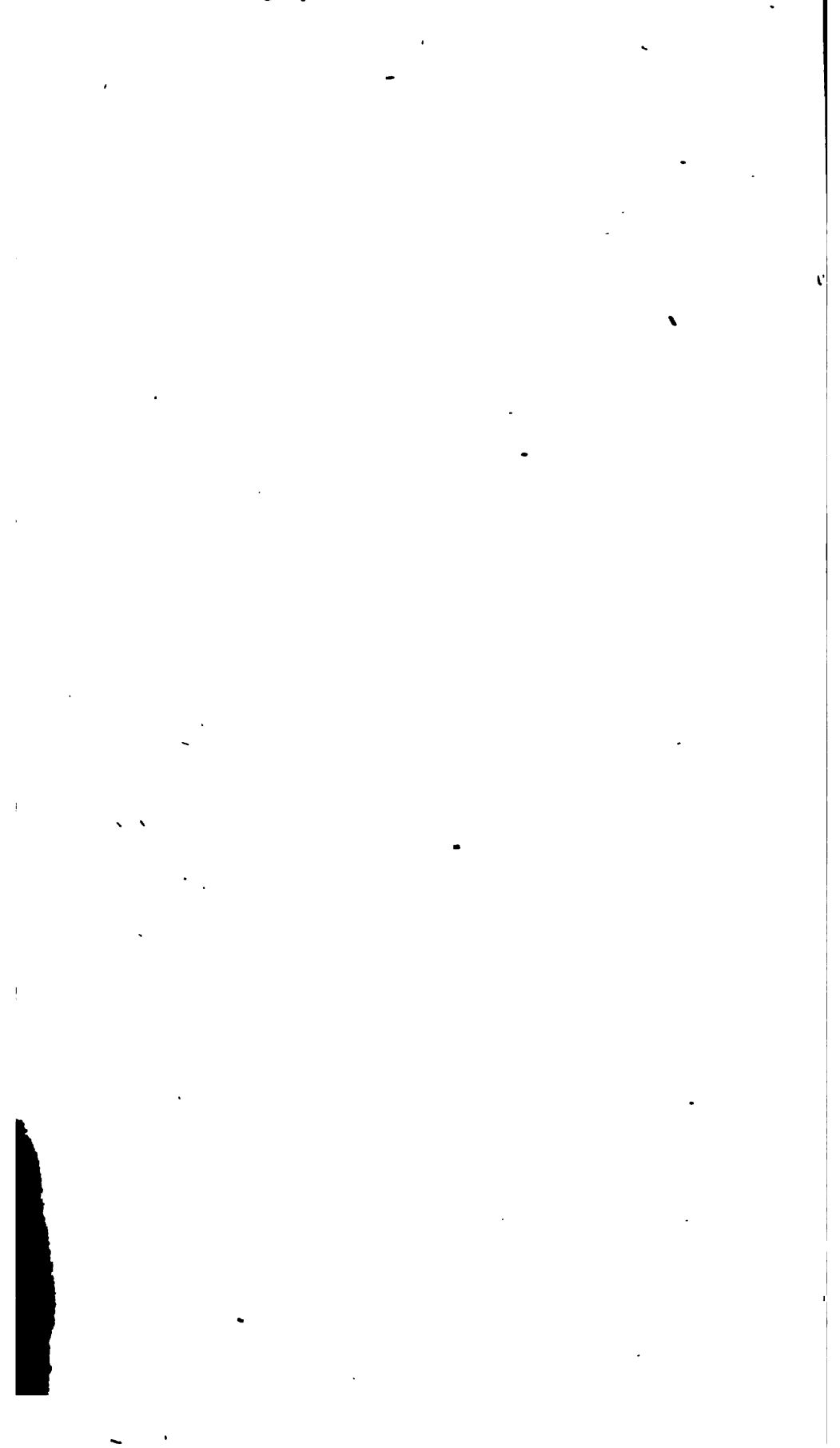
Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Moses Cleveland,

REPORTED—

The petitioner prays for a law to compel the town of Salem, in the county of Washington, to remunerate him for expenses incurred as commissioner of highways of that town. If the petitioner has any just and legal claim against the town, there are abundant provisions in the Revised Statutes to enable him to enforce it; and if he has not such a claim, the legislature certainly ought not to compel its payment.

Your committee recommend to the House the adoption of the following resolution :

Resolved. That Moses Cleveland have leave to withdraw his petition and the accompanying documents.



IN ASSEMBLY,

April 6, 1831.

REPORT

Of the select committee on so much of the Governor's Message as relates to the controversy between this State and the State of New-Jersey.

Mr. McDowell, from the select committee to whom was referred the Governor's message relating to the controversy between this State and the State of New-Jersey,

RESPECTFULLY REPORTS :

That the committee, after a careful consideration of the matters referred to them, concur with entire unanimity, in the opinions expressed by the Governor and the Attorney-General, in relation to this unpleasant controversy.

That the Constitution *intends* to confer upon the Supreme Court of the United States jurisdiction over controversies between States, is probably true, and your committee deem it also true, that this intention cannot be carried into effect without the aid of the national Legislature : for that court could not have had an existence without this aid. The number of its judges, the terms of its courts, the nature of its process, and the appointment of its officers were, necessarily, to be prescribed by Congress.

If the constitutional grant of jurisdiction was of *itself* sufficient to confer all the powers necessary to make that jurisdiction operative, why was the judiciary act passed? Why was the *nature* and *kind* of writs against individuals and corporations prescribed, and given by Congress to that court, if the constitutional grant were *already* sufficient for that purpose? If its powers were defined and its machinery arranged by the Constitution, farther legislation was a

work of supererogation. There is no need to strengthen by a *law* what has been ordained by the *Constitution*. But these particulars were not included in the grant, and were therefore conferred by law.

At the time of the enactment of the law organizing the judiciary, it was well understood that there were no "principles and usages of law" regulating suits against a sovereign State; that neither common nor statute law had provided for such an emergency. It was well understood that the Constitution had made a new case—a case of the first impression and of national importance, concerning which there neither had nor could have been any "usages, or principles," or precedents, except those negating the idea of the suability of a sovereign State. Yet Congress, by express implication, refused to provide the means of carrying on a suit, or enforcing a judgment against a State, by limiting the Supreme Court to the issuing of such writs only as were specified, or were "*agreeable to the principles and usages of law.*"

But why was the important case of a suit commenced against a State, prosecuted to judgment and enforced by execution, not provided for by Congress? Certainly, not because it was deemed to have been already disposed of by the Constitution. We were without experience and without rules in relation to such a case; and the court was without even an execution by which to compel an observance of its decrees, in a suit against a State, even if the means of commencing and prosecuting it had been provided.

It would be extraordinary, indeed, to suppose that the exercise of one of the most potential principles of the Constitution was provided for, when such a defect was apparent. And still more extraordinary, that the Supreme Court, itself, was entrusted with the *legislative* power necessary to give it effect.

The importance of prescribing a mode by which the constitutional supremacy of that court might be made effective, could not, and did not, escape the attention of Congress: and the only reason why it was not done, must have been the difficulty and delicacy of doing it without hazarding the integrity of the States.

Your committee does not stand alone in the opinion, that the case in question can only be provided for by Congress, and that it is not provided for by the Constitution.

The State of Virginia has twice declined to appear in this court. South Carolina, Georgia and Connecticut have also declined; and this State, when in other hands, has once before this declined also. The learned jurists of New-Jersey have not, hitherto, supposed the case provided for; and for that reason, undoubtedly, in the year 1827, the New-Jersey commissioners offered a voluntary submission of this very controversy to the arbitrament of the same court before which it is now sought to *enforce* our appearance.

In 1822, Mr. Dickerson, one of the most eminent citizens of that State, intimately conversant with this controversy, introduced into Congress the *projet* of a law prescribing the mode of proceeding in cases like this; but Congress, as repeatedly it had theretofore, declined it. And it ought not to be forgotten, that so dissatisfactory was that decision of the Supreme Court which sanctioned its own right to exercise a compulsory power over the States, that an immediate amendment of the Constitution resulted therefrom.

It has been urged that if legislative aid be necessary to give effect to a constitutional provision, Congress may control the constitution by refusing the proper legislation. Be it so. The power "to make all laws which shall be necessary and proper for carrying into execution all the powers vested by the constitution in the government of the United States, *or in any department or officer thereof*," has been entrusted to Congress by the express terms of the Constitution; therefore to *that* body does *this* discretion belong.—When that discretion shall have been abused, and by it the performance of a clear and necessary duty avoided, we may perhaps doubt our capacity for self government; but the supreme court will not thereby become the depository of any additional or reparative power. The failure of the National Legislature to exercise its exclusive authority cannot enable any other department to supply the omission, or by any indirection to repair the evil.

To confer jurisdiction over the subject matter of controversies between sovereign States, could be accomplished by nothing less than a constitutional compact. Ought the power of obtaining jurisdiction over the sovereignties *themselves* to be conferred by a less authority than a *law*, whose binding force they all should acknowledge? The idea that a judicial tribunal, irresponsible to the States, should be able, from a mere grant of jurisdiction over the subject matter by a simple rule of court, which may be repealed to-morrow and

never again established, to affect their *sovereignty*, is at least as novel as it is dangerous.

Ought the Supreme Court, by a rule in its minutes, to *legislate* upon a matter whose delicacy and difficulty has repeatedly induced Congress to pause and refrain, merely because that court has been authorised by a law "to make and establish all necessary rules *for the orderly conducting* of business *in* said court"? This gives the power of regulating "the orderly conduct of business that *is* in that court," but does it authorise the *acquisition* of business that is not *in*, because jurisdiction of the person has not been obtained?

Your committee cannot but concur with the Attorney-General in "believing that this was only authority to regulate proceedings in cases where the court *had* jurisdiction *by law*, and not a power by which jurisdiction might be acquired." Can the Supreme Court give to itself the power of acquiring jurisdiction over the person, any more than it can assume jurisdiction over the subject matter? In the opinion of your committee it ought not to claim possession of the former power by any title less than a law of Congress; especially when it affects the hitherto untouched sovereignty of the States, and more especially when this power, as affecting individuals and corporations, has been exercised only upon express grant of Congress.

It is a principle of law well settled, that jurisdiction of the subject matter is no avail until jurisdiction of the person has also been obtained. So necessary was this held by the common law, that until the alterations by modern statutes, all the goods of a corporation might be distrained, and if necessity required, might be exhausted, to compel an appearance. And in the case of an individual, judgment of outlawry must be pronounced before judgment on the subject matter could be rendered against him.

Besides, what has been the course of this State and of the United States on this subject? Neither State nor National Legislature have appointed a representative of our sovereignty, nor provided for such appointment to defend us in the national courts. There is no citizen or citizens of this State, whatever may be their official station, who have been charged with the responsibility of such a defence. Can it be possible then, that a judicial tribunal, however grave or elevated its character, can impose a duty upon this State, or any ci-

tizen thereof, which, if disregarded, might hazard the loss of our territorial jurisdiction—of our treasury, and of our sovereignty.

The States have well been reserved on this subject, and it is not with an idle care that such as have been called to the trial have declined a compromise of their rights by an appearance before that tribunal.

It seems to be conceded that the United States are not subject to be sued in any court, and yet the second section of the third article of the Constitution, as expressly extends the judicial power "*to controversies to which the United States shall be a party,*" as it does "*to controversies between two or more States.*" Your committee do not perceive any reason that will exempt the United States from the express terms of the Constitution, that will not also exempt the individual States. Be this as it may, there is another point in this controversy which your committee deems decisive.

New-Jersey was never in possession of the waters she now claims, whilst this State has been in actual possession thereof, exercising entire and unhindered jurisdiction long anterior to the war of the Revolution until now. But New-York claims no more *now*, than she did while a colony—possesses no more than when, after a successful rebellion against the mother State, she became sole and independent, and seeks to enforce her right to no more *now*, than when she and New-Jersey, together with eleven other free and sovereign States, entered into the constitutional compact in the twelfth year of their independence. As her territorial jurisdiction was *then*, so it must now remain. Not a line of the territory over which she then exercised her sovereignty can now be altered. What she was while sole and independent she still remains, so far as territorial sovereignty is concerned; and no confederated State may litigiously inquire what were her possessions subsequent to the Revolution, and previous to the adoption of the Constitution, at least before any tribunal since that time created. New-Jersey and New-York must alike retain their jurisdiction as it was exercised at the time they mutually entered into the federation of the States, with a full knowledge of the actual jurisdiction of each other as to the disputed waters. And your committee hold that the territorial sovereignty of an individual State, as it existed at the adoption of the Constitution, can no more be questioned, than its actual independence.

Your committee have examined the matters submitted with a freedom becoming their importance, and with feelings of respect for the high tribunal whose opinion has been questioned, which they trust do not misbecome its dignity.

The facts that the cases already decided have never been argued on behalf of the States, and that in the opinion recently given, the views of former judges have rather been stated than those of the present bench, and that it does not seem to have been conclusively settled, have induced a consideration of the case not exactly *as res judicata*, but as allowing an investigation on original grounds.

Your committee in conclusion beg leave to offer the following resolution :

Resolved, (if the Senate concur herein,) That the Legislature of the State of New-York approve of the course which has been taken by his Excellency the Governor, in relation to the controversy between this State and the State of New-Jersey.

IN ASSEMBLY,

March 10, 1831.

REPORT

Of the committee on claims, on the petition of David Carman.

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of David Carman,

REPORTED—

The petitioner appears to have been a meritorious soldier in the army of the revolution ; he is now poor and aged ; and is recommended to the favorable consideration of the legislature, by several very respectable gentlemen of New-York. But he presents no ground on which he can claim any bounty lands or pay from this State. His claims to the sympathy of the legislature are strong, but as they do not come within that class of claims which it is the duty of this committee to examine, they ask to be discharged from the further consideration of the petition, and recommend the adoption of the following resolution.

Resolved, That David Carman have leave to withdraw his petition.

IN ASSEMBLY,

April 6, 1831.

REPORT

Of the minority of the select committee, relative to the boundary line between this State and the State of New-Jersey.

Mr. Horsford, from the *minority* of the select committee, to which was referred the communication of the Governor relative to the boundary line between this State and the State of New-Jersey, dissent from the report of a majority of that committee, and submit the following

REPORT:

The resolution submitted by the majority of this committee simply proposes an approbation of the course pursued by the Governor in relation to the controversy with New-Jersey. The minority are of opinion that no such subject has been submitted to the committee, and that approbation or disapprobation of the course of a co-ordinary branch of the government forms no part of our legislative duties, except when an inquiry is instituted with a view to an impeachment or removal of a particular officer. The Governor in his communication of 10th of March last, says, that unless otherwise directed by the Legislature, he shall instruct the Attorney-General to appear and contest the suit, protesting against any concession of right by such appearance. The only purpose of the communication, therefore, appears to have been to submit the whole matter to the Legislature, with a view of enabling the two houses to interpose and prevent the Attorney-General from appearing, if they should judge such appearance improper.

As to the course which the Governor proposes to take, the resolution is entirely silent, while it speaks of the course that has been taken, a matter on which the opinion of the Legislature has not been solicited, and upon which it belongs rather to the voters of the State, in their individual capacities, to consider and express their opinions through the ballot boxes. The course which has been taken by the Governor, has been to instruct the Attorney-General not to appear in the Supreme Court of the United States. A resolution simply approving that course would justify an inference, that the Legislature disapproved the course which the Governor says he proposes to take hereafter, namely, to instruct the Attorney-General to appear; an inference which this minority cannot sanction. It is made the duty of the Governor to provide for the defence of any suit instituted against this State, (See 1st vol. Revised Laws, page 65, section 3d,) and it is to be presumed he will discharge this duty so long as the law remains in force. It has, therefore, appeared to the minority of your committee, that if the Legislature do not intend to counteract the course which the Governor informs us he means to pursue, the two houses have only to be silent, or to say that any legislation on the subject is unnecessary.

The minority of your committee have not perceived the necessity of discussing the question, whether the Supreme Court of the United States has jurisdiction of the controversy with New-Jersey, unless it be with the view of giving instructions to the Attorney-General, counter to those which the Governor says he shall give.

But as the majority of this committee have gone into that discussion, and arrived at a conclusion, that the Supreme Court cannot entertain the cause, and their resolution implies that the Attorney-General ought not to appear, the minority feel constrained to express their entire dissent from the conclusions of the majority, and to assign their reasons for such dissent.

The reasoning of the majority is but little more than a repetition of the arguments of the Attorney-General in a condensed form, with the addition of one point which he has not presented. At page eleven of the Attorney-General's letter to the Governor, communicated with the message, he says, "conceding that the judicial power of the United States extends to controversies between two States, it remains to be considered whether the grant of jurisdiction by the constitution included also the manner of carrying it into execution, or whether those means were to be provided by Congress." The same

concession that the judicial power of the United States extends to controversies between two or more States, is made in the report of the Attorney-General to the Governor, in December, 1829, accompanying the Governor's message of last year; and the majority of this committee commence their report by saying, "that the constitution intends to confer on the Supreme Court of the United States jurisdiction over controversies between States, is probably true." The words of the constitution are, that the judicial power of the United States shall extend to controversies between two or more States; between a State and citizens of another State; and also between a State or the citizens thereof and foreign States, citizens or subjects.

These words seem very intelligible, and a plain man would think admit of no dispute. If they did, a construction has been given by the several States of this Union, which seems to be conclusive. Suits had been brought against several of the States, in some instances, by citizens of other States, and by subjects of foreign States, in one of which the Supreme Court decided, that it had jurisdiction, and had ample powers to provide the means of executing it, and it made rules for that purpose. At the 2d session of the 3d Congress, (which was in 1795, see 1st vol. Laws U. S. page 73,) an amendment to the constitution was proposed, declaring that the judicial power of the United States should not be construed to extend to suits against one of the United States, brought by citizens of another State, or by citizens or subjects of a foreign State.

This amendment was adopted, and became incorporated in the constitution, as art. 11th of the amendments. The attention of the States, it will be perceived, had been called most distinctly to that provision of the constitution which rendered them liable to suits and prosecutions. What alteration did they propose or adopt? Was it to deprive the Supreme Court of jurisdiction in all cases against a sovereign State? Far from it.

They selected the two cases of suits brought by citizens of another State, and of suits brought by citizens or subjects of a foreign State, and declared that in those cases the Supreme Court should not have jurisdiction. But the other cases of suits by one State against another, and of suits by a foreign State against one of the United States, were left precisely where they were. Can it be believed that the statesmen of that day, overlooked this important distinction? Their silence, and particularly that of the early and distinguished friends of State rights, Jefferson and Madison, shows that they re-

garded the provision respecting controversies between States as requiring no alteration or amendment, and as being in itself just and expedient. No doubt, then, it is presumed can be entertained, that the constitution vests in the Supreme Court of the United States original jurisdiction to hear and determine controversies between two or more States. But it is said their jurisdiction, though conferred, cannot be exercised without the aid of the Legislature in providing the number of judges, the terms of the court, and the process and proceedings by which it can compel parties to appear and abide the judgment of the court.

The number of judges is prescribed. They have been appointed; the terms of the court are fixed, and it is ready to discharge its functions under the constitution. Now, conceding that the court has no process by which the appearance of this State can be compelled, (a point which is not admitted, but the contrary thereof strenuously maintained by this minority,) yet for the purpose of the argument, conceding it, the question still returns, what is the duty of the officers of this State, under the provisions of the constitution in question? We have all sworn to support that constitution. Is this oath an idle ceremony? or has it meaning, and was it intended for any useful purpose? By that oath, we have engaged to submit to all the directions, inhibitions, and other provisions of that instrument. Among these, are many, for a violation of which, by a State, there can be no redress or penalty. Take, for instance, that which forbids a State from entering into any treaty, alliance, or confederation, or granting any title of nobility. Suppose such an alliance formed, or such a title granted: they are plainly void, but there are no means provided by the constitution by which they can be annulled, or a State be enjoined from doing the forbidden act. Shall a State, or its officers, therefore be at liberty to do it? Again: Each State shall appoint electors of President and Vice-President. The performance of this duty cannot be enjoined by any human power; and yet is a State less bound to appoint electors, because there is no mode of compelling it? So with respect to the provision under consideration.

The constitution says, controversies between two or more States shall be tried and determined by the Supreme Court of the United States. But admit, as contended by the majority of the committee, that this cannot be done, unless the parties appear voluntarily and submit their; testimony then, by the provision itself, the States have agreed that they would voluntarily appear. It may be compar-

ed to an agreement to submit to arbitrators, who have no power to bring parties before them. Are the parties thereby released from their obligation to appear and abide the decision of the arbitrators? Good faith, the plainest dictates of justice and honor, would require any individual to fulfil such an obligation; and he who disregarded it would be held infamous. Is the obligation less imperative on the officers of a State, who have taken upon themselves to fulfil its engagements, and who have taken an oath of office to comply with all the requirements of the constitution; among which is one, that controversies between States shall be submitted to the decision of the Supreme Court of the United States?

If, as alleged, it be incompatible with our sovereignty to submit to the decision of any tribunal, controversies involving our territorial limits or jurisdiction, the answer is, we agreed to do so when we ratified the constitution.

And in this, as in numerous other instances, the sovereignty of the States as independent nations, was surrendered for the common benefit. Admit, then, that the Supreme Court has no other power to compel the appearance of a State, than an arbitrator would have to enforce the appearance of any party who had submitted a controversy to his determination—the power of appointing a time and place for the hearing of the parties, and requiring the complainant to apprise the other party of the nature and extent of his demand, still the obligation to appear before this umpire is complete, and as binding as if he had authority to enforce such appearance by imprisonment or attachment; and it seems to us that it cannot be violated without a breach of a fundamental compact between the States, entered into for the express purpose of preventing a resort to arms. And we cannot conceive how the question respecting the power of the Court to compel an appearance, or execute its decrees, can enter into the determination of the question whether the Court has jurisdiction; that is, whether it can hear and determine the controversy. To our minds, these questions are entirely distinct; and the analogous case of an arbitration shows, that a power to hear and determine may exist without any power in the temporary judge to enforce his award.

It has appeared to this minority, therefore, that the provisions of the Constitution, good faith towards our sister States, and our own oaths of office, require this State to appear in the tribunal created for that purpose, whenever cited there by a sister State, or by a

foreign State, without stopping to inquire what power that tribunal possesses to compel our appearance.

But it is said by the majority of the committee, that "neither the State or National Legislature has appointed a representative of our sovereignty, nor provided for such appointment, to represent us in the National Court; and that there is no citizen or citizens of this State, whatever may be their official stations, who have been charged with the responsibility of such a defence." And the Attorney-General, in his report to the Governor of December 26, 1829, says, "But a suit directly against the State, does not appear to have been at any time contemplated by the Legislature, and no provision has been made on that subject."

If this be so, then it would be an unauthorised act in the Governor to instruct the Attorney-General to appear in behalf of this State, to answer to the suit brought by New-Jersey; and it would become necessary to pass a law conferring this authority. But this is believed to be unnecessary, as it is supposed the laws provide abundantly for the case. At the time the suit was commenced by New-Jersey, and process was served on the Attorney-General, (June, 1829,) and at the date of the report last quoted, the "Act relative to the jurisdiction of this State over the territory therein mentioned," passed April 5, 1808, and to be found in 1 Revised Laws of 1813, page 238, was in full force. By the 4th section of that act, it is provided, "That if at any time any suit or other proceeding shall be instituted or commenced by the State of New-Jersey against this State, to recover the said territory, or any parcel thereof, the person administering the government of this State, for the time being, shall retain and employ counsel, and otherwise provide for the defence of this State in any such suit or proceedings, as shall be requisite;" and the sum of three thousand dollars is appropriated to defray the expenses. It would seem that this act had escaped the notice of the Attorney-General. The same provision in substance, though in a more general form, is contained in the Revised Statutes, in the second title of the first chapter of part first, section third, which provides that "if any suit shall be instituted against this State," &c., "that the Governor, at the expense of this State, shall employ counsel, and provide for the defence of such suit."

It will be seen that a majority of this committee were mistaken in saying that there is no citizen, whatever may be his official station,

charged with the responsibility of defending such a suit; and it will be obvious that no law on the subject is necessary.

It then appears to this minority, that conceding the ground taken by the majority of this committee, namely, that Congress has refused to provide the means of carrying on a suit, or enforcing a judgment against a State, and that therefore an appearance cannot be compelled, yet good faith, and the compact between the States, requires us to appear and submit our controversy. And it has also appeared to this minority, that such was the understanding of a former Legislature which passed the act referred to, and of subsequent Legislatures, which have suffered it to remain unrepealed. For they cannot understand how provision can well be made for the defence of a suit, without at least impliedly admitting that a suit can be commenced. If those legislators had entertained the sentiments expressed by a majority of this committee, instead of providing for counsel to defend suits, they would have prohibited any one appearing in behalf of this State.

The minority of your committee do not hesitate in declaring, that they look upon those parts of the Constitution, which are calculated to preserve peace between the several States, and to unite them together in a fraternal bond, under one common head, as by far the most important portion of that venerated instrument, and as demanding a compliance, not only full and fair, but scrupulously faithful. It cannot be denied that the tendency of the planets in our political system is rather from the centre than to it. While State rights should be carefully watched, and the first step towards encroachment upon them firmly resisted, yet State pretensions, without right, are equally destructive of the harmony and interest of the whole Union, as well as of the several States. The doctrines of nullification of the acts of Congress, and of resistance to the judgments of the supreme national tribunal of justice, as they have received no support or sympathy from our citizens, should not derive even an implied sanction from the government. Where the States have reserved their rights, let them be faithfully maintained; where they have surrendered any part of their sovereignty, let them not grudgingly seek to reclaim it by evasions and subterfuges, but ask it openly by proposing an amendment to the Constitution.

This minority concur in the opinion expressed by the Governor, that in a government based on written constitutions, "it is in the nature of things that there must be an irresponsible power some-

where, and that this power has been placed in the judicial tribunals." And they agree also, that the Supreme Court of the United States, "being the ultimate tribunal, from which no appeal lies, must necessarily decide, among other things, upon its own constitutional powers." And there are, among the cogent reasons which influence them in the conclusions to which they have arrived, that this State ought to fulfil its obligation to submit controversies with other States to that tribunal, in the equitable, just and liberal spirit in which that obligation was assumed, without cavilling about the means or the mode in which we may be compelled to do so.

This minority are unwilling to close this report, without advertising to some of the arguments which have been adduced to show that the jurisdiction conferred by the constitution on the Supreme Court, cannot be exercised without the further intervention of Congress, and that Congress has not interposed, so as to afford the necessary means of exercising that jurisdiction. With great deference this minority advance the opinion, that Congress has done all that was necessary. They will not repeat the conclusive argument of the Supreme Court, contained in the opinion annexed to the Governor's message ; but they will notice what has been said in reply to those arguments. It is remarked in the message of the Governor, that "it was not designed by the constitution to confer that power [that of deciding controversies between States,] on the Court, until Congress had legislated upon it, and declared *what* controversies between States were proper to be entertained by the Court, and what should be the mode of proceeding." "The constitution," says the message, "is silent in regard to both of these matters." It is worthy of note, that the second subdivision, of the second section of the third article of the constitution simply says, that in cases affecting ambassadors, &c. and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. It says nothing about excepting or regulating by Congress. But when it proceeds to speak of the other cases mentioned in the first section, such as those arising under the laws of Congress, it declares that the Court shall have appellate jurisdiction, "with such exceptions, and under such regulations as the Congress shall make." It seems to this minority, that a strong argument may be drawn from this language, to show, that the intent of the constitution was, that Congress should not, in any manner interfere with the original jurisdiction of the Supreme Court. This minority cannot agree that Congress had any power to declare the cases in which the jurisdiction of the

Supreme Court should be exercised. These cases were defined by the constitution, "Controversies between two or more States;" and the universality of the language forbids qualification or restriction by any other power. But it so happens that congress has declared these cases. By the 13th section of the "act to establish the judicial courts of the United States," it is provided that the "Supreme Court shall have exclusive jurisdiction of *all* controversies of a civil nature, where a State is a party, except between a State and its citizens, in which latter case it shall have original, but not exclusive jurisdiction." If it was necessary, as the message says, that Congress should declare *what* controversies were proper to be entertained by the Court, before it could exercise its jurisdiction, the section quoted supplies the demand, for it says, "all controversies of a civil nature, except between a State and its citizens," &c.— Having thus recognised and defined the cases, in which the Supreme Court shall have exclusive jurisdiction, the act of Congress proceeds and provides that "all the before mentioned courts of the United States shall have power to issue writs of scire facias, habeas corpus, and *all other writs*, not specially provided by statute, *which may be necessary for the exercise of their respective jurisdictions*, and which may be agreeable to the principles and usages of law." It would be difficult to express the required authority, in more broad and universal terms; and no question would have arisen, but for the last expression, "agreeable to the principles and usages of law." The argument is, that this must refer to the principles and usages of the common law, and as State sovereignties were not known by that law, there can be no principle or usage applicable to them.

In the view of this minority, there are several fallacies in this argument. It is denied that this expression refers to the principles and usages of the common law. It refers to the general principles and usages of American law, which consists of the common law, modified by our constitution and laws. The expression is as well applicable to State sovereignties as to corporations. Its meaning is believed to be, that the writs necessary to exercise the jurisdiction of the court, should in their nature and effect be conformable to those we were accustomed to; to our "usages," and to the principles of law existing in a free government. For instance, there could be no *lettres de cachet*, by which a man could be secretly imprisoned. The writs were to be the summons for the corporation and public bodies; the *capias* for individuals, &c. But the whole force of the

argument rests upon the assumption, that State sovereignties are to be coerced to appear, by these writs. Now if the view before presented in this report be correct, the States surrendered their sovereignties in this respect when they agreed to submit their controversies to the Supreme Court; and they are to be regarded as public bodies, and *quasi* corporations somewhat like the counties in England. They are no longer sovereignties in this matter, and it is known that there is a mode of proceeding against these counties, even by the common law. The powers necessary to enable the court to exercise its jurisdiction are also, in the opinion of this minority, conferred by the act, which authorises the court "to make and establish all necessary rules for the ordinary conducting business" in the said court. It may be considered that this is not the best mode of conducting such proceedings; but if it is a mode that will answer the purpose, no more can be required,

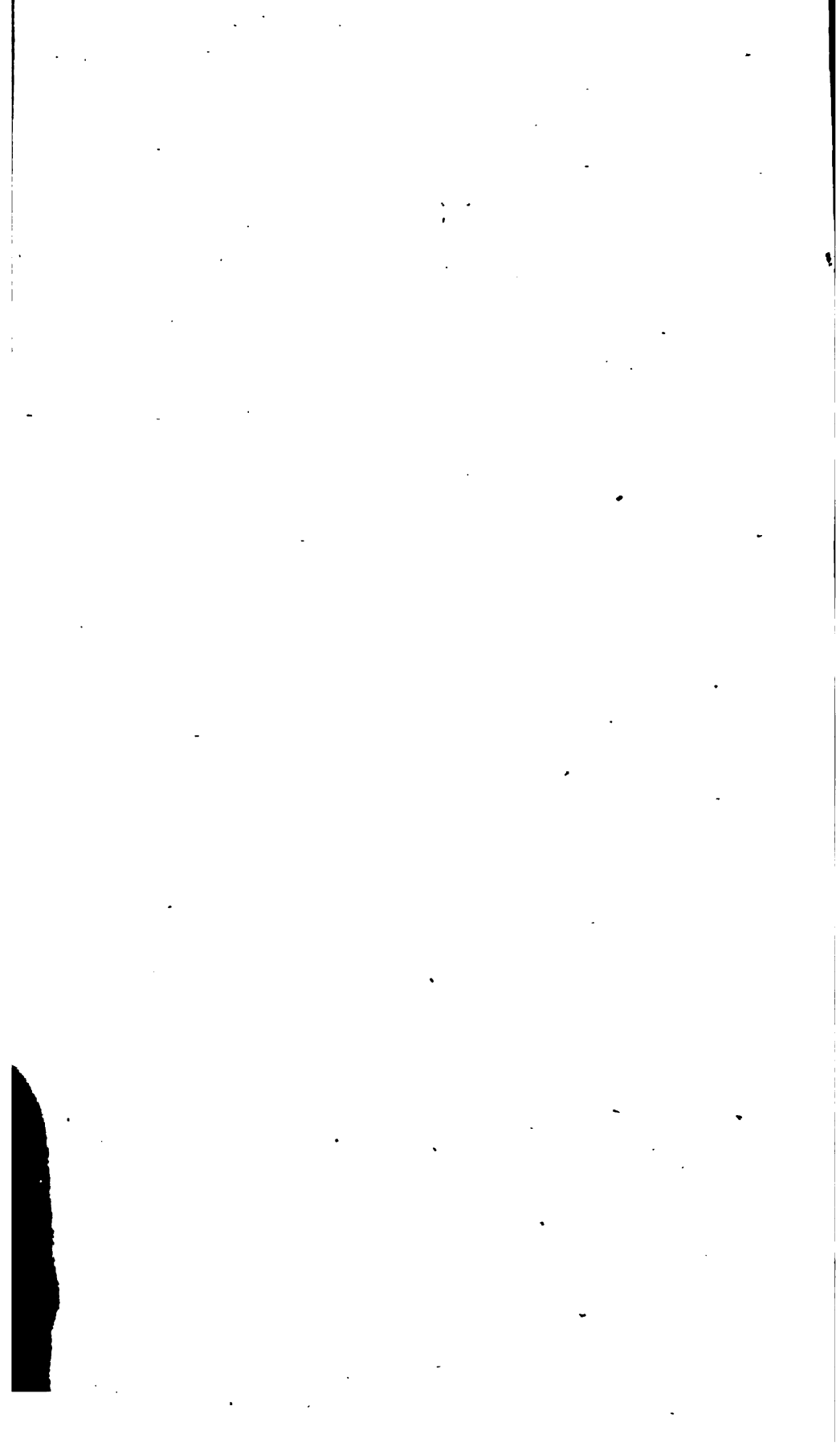
This minority will not further discuss this branch of the subject. Their only object has been to prevent an impression being derived from their silence, that the replies to the arguments of the Supreme Court were unanswerable. Other answers they doubt not might be given by abler hands.

The majority of the committee seem to think that there is something in the nature of the controversy with New-Jersey which should prevent its being the subject of adjudication; and that is, that the right of New-York to territorial limits and sovereignty as now claimed, was claimed and exercised before the revolution. This minority cannot perceive why this should make any difference. The age of the controversy cannot change its character, nor does the compact refer to future claims; it submits all *controversies* whenever they arise, and however ancient or modern the title on which they arise may be, it submits them *all* to the Supreme Court.

This minority has studiously avoided entering into the merits of our controversy with New-Jersey. They hope we are in the right, and they believe that justice will be done. They can perceive no constitutional mode in which this State can avoid submitting the whole controversy to the Supreme Court. They believe the State is bound to do so. They believe the Supreme Court is empowered to decide whether it has jurisdiction, and that no other tribunal or body has the right to decide that question. The State of New-York having heretofore invoked that jurisdiction against one of her sister States, Connecticut, in a similar case, it would be as undignified as

it would be unjust and unfaithful to the constitution, now to refuse submission to the same authority.

This minority propose so to amend the resolution submitted by the majority, by striking out all after the word "resolved," and inserting "that inasmuch as the laws already provide sufficiently for the defence of the suit brought against this State by the State of New-Jersey, and the Governor has intimated his intention of causing an appearance in the said court to be entered in behalf of this State, and of defending the same, further legislation upon this subject is unnecessary."



IN ASSEMBLY,

March 14, 1831.

ANNUAL REPORT

Of the Brooklyn Savings Bank.

Pursuant to the act incorporating the Brooklyn Savings Bank, the managers beg leave to present their fourth annual report, as follows :

They have received during the period from the 1st of January, to the 31st December, 1830, from 338 depositors, the sum of \$17,508 45 cents, viz.

In January,	from.....	29 depositors,.....	\$1,244
February,	"	19 "	366
March,	"	12 "	635
April,	"	19 "	766
May,	"	33 "	3,333
June,	"	52 "	3,092
July,	"	24 "	1,014
August,	"	23 "	491
September,	"	22 "	1,476 45
October,	"	21 "	1,130
November,	"	37 "	2,222
December,	"	47 "	1,739
			<hr/>
			338
			<hr/>
			\$17,508 45

Of which 106 are new accounts, and 232 re-deposits.

The sum of \$10,345.34, has been paid to 143 depositors, 45 of whose accounts are closed. The sum of \$8,300 is invested in stocks, and \$25,898.44 in cash, uninvested.

The deposits have been made by persons of the following occupations and descriptions.

Bakers,	5	Mapmaker,	1
Blacksmiths,	5	Mantaumaker,	1
Barkeepers,	4	Merchant,	1
Bookkeeper,	1	Ministers,	2
Bookbinders,	4	Miller,	1
Carvers,	2	Nurses,	5
Carpenters,	7	Ostlers,	2
Chandlers,	2	Painters,	5
Chambermaids,	9	Pewterer,	1
Clerk,	1	Printers,	4
Cooks,	5	Potters,	2
Clockmakers,	2	Porter-house-keepers,	2
Coachmaker,	1	Ropemaker,	1
Coachpainter,	1	Seaman,	1
Currier,	1	Servants,	21
Dressmakers,	4	Seamstresses,	8
Farmers,	12	Shoemakers,	18
Ferrymasters,	4	Stonecutters,	6
Fishermen,	3	Tayloresses,	4
Furdressers,	4	Teachers,	9
Hatters,	4	Vestmaker,	1
Labourers,	39	Waiters,	3
Milkmen,	2		
Widows,	22	Minor males,	17
Single women,	39	" females,	8
Trust accounts,	31	Blacks,	16

And the deposits were made in the following sums :

From \$1 to	5	65
5 to	10	52
10 to	20	63
20 to	30	47
30 to	40	20
40 to	50	16
50 to	60	20
60 to	100	19
100 to	200	29
200 to 1,000		7

338

A. V. SINDEREN, *President.*

JAMES S. CLARK, *Secretary.*

Brooklyn, January 1891.

*Brooklyn Savings Bank in account with Abraham Vanderveer,
Treasurer.*

1830.

D.R.

January,	To cash paid depositors,.....	\$1,028 50,
	expenses,.....	\$35 00
February,	To cash paid depositors,.....	641 05
	expenses,.....	6 00
March,	To cash paid depositors,...	312 20
April,	To cash paid depositors,.....	3,883 21
	expenses,.....	25 00
May,	To cash paid depositors,.....	905 19
June,	To cash paid depositors,.....	1,012 75
	short on deposits,.....	0 45
July,	To cash paid depositors,.....	637 65
	expenses,.....	30 00
August,	To cash paid depositors,.....	542 66
Septem.	To cash paid depositors,.....	502 62
	expenses,.....	36 68
October,	To cash paid depositors,.....	347 07
Novem.	To cash paid depositors,.....	387 44
Decem.	To cash paid depositors,.....	135 00
		132 68
Balance,	25,898 44
		<u>\$36,376 91</u>

1830.

C.R.

January,	By balance on account as rendered,.....	\$11,968 90
	cash received from depositors,.....	1,244 00
	U. S. 4½ per ct. stock pd off, \$3,535	
February,	By cash rec'd from depositors,	366 00
	int. on stock, ..	\$91 25
March,	By cash rec'd from depositors,	635 00
April,	By cash rec'd from depositors,	766 00
May,	By cash rec'd from depositors,	3,338 00
	int. on stock, ..	151 25
June,	By cash rec'd from depositors,	3,092 00
	int. on stock, ..	30 00
	U. S. 6 per ct. stock pd off, 2,000	
	cash for inter. on balances	
	from Long-Island Bank,..	352 30

July,	By cash rec'd from depositors,	\$1,014 07
August,	" " "	491 00
Septem.	" " "	1,476 25
October,	" " "	1,130 00
Novem.	" " "	2,222 03
	int. on stock, ..	30 00
Decem.	By cash rec'd from depositors,	1,739 00
1831.	int. on stock, ..	182 50
January,	By cash on bal. from L. I. bank,	527 36
		<hr/>
		5,535 1,364 66 6,899 66
		<hr/>
		\$36,376 91

1831, January, By balance of account, being cash in the
Long-Island Bank to the credit of the
Brooklyn Savings Bank,..... \$25,898 44

ABM. VANDERVEER, *Treasurer.*

Brooklyn, January 1831.

No. 318.

IN ASSEMBLY,

March 14, 1831.

REPORT

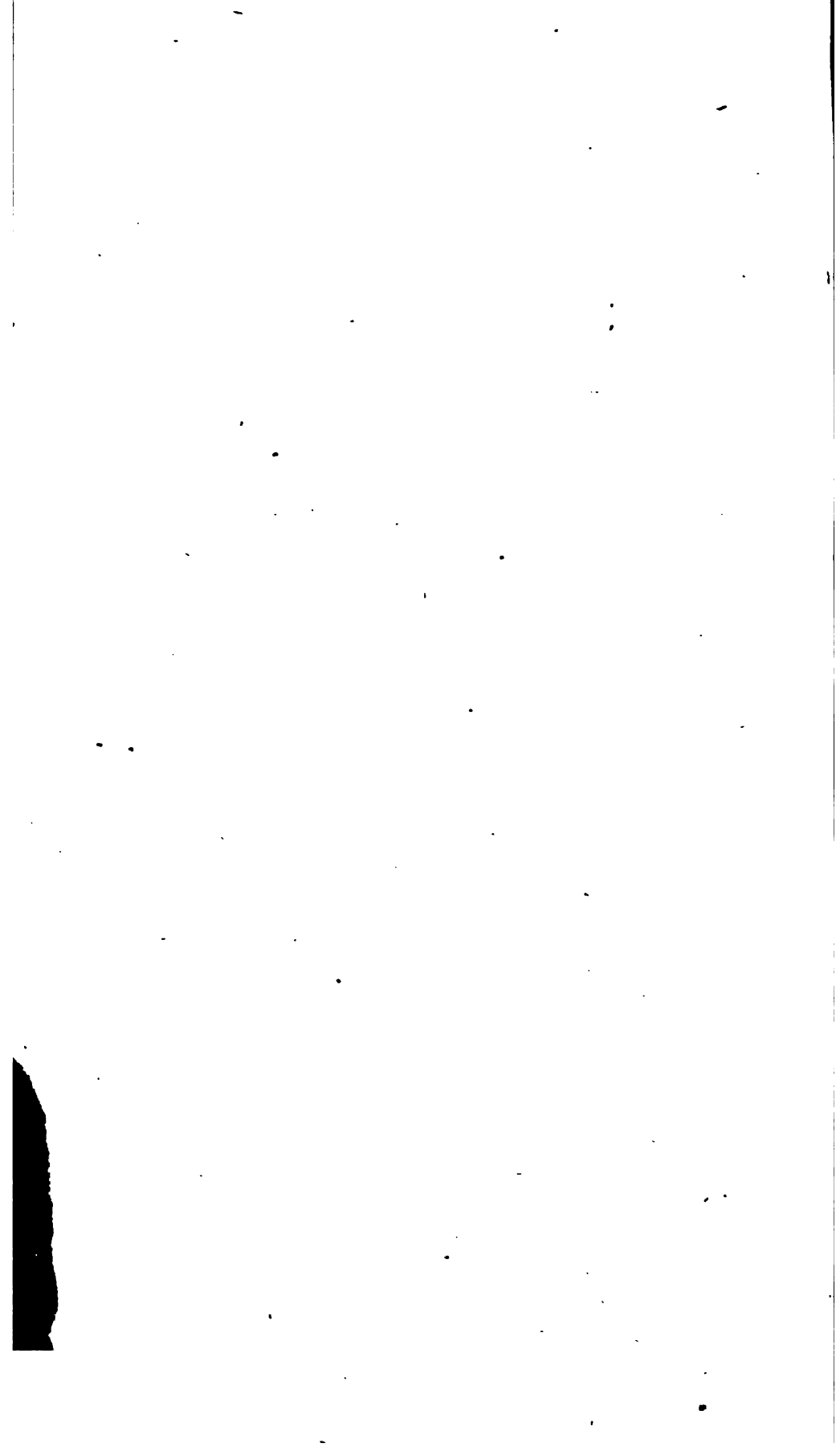
Of the select committee on the petition of William Mills.

Mr. Tyler, from the select committee, to whom was referred the petition of Wm. Mills and others,

REPORTED—

That the petitioners wish a law to be passed giving them power to lay out and open a road, partly in the counties of Orleans, Genesee and Erie, and running through the Tonnawanta Indian reservation.

Upon due consideration, the committee are satisfied that such road would be beneficial to many of the inhabitants in that section of the country, and that considerable sums of money are and will be subscribed to open said road. Wherefore the committee think the request reasonable, and have prepared a bill accordingly, which they ask leave to introduce.



IN ASSEMBLY,

March 14, 1831.

REPORT

Of the committee on colleges, academies and common schools, on the petition of Henry Hawkins.

Mr. Morehouse, from the committee on colleges, academies and common schools, to which was referred the petition of Henry Hawkins, and others, of the town of Alexander, in the county of Genesee, praying for an act to incorporate a high school, in the village of Alexander,

REPORTED—

That by title three, of chapter seven, of the first part of the Revised Statutes, relating to applications to the legislature, every association intending to apply to the legislature for an act of incorporation, are required to cause notice thereof to be published for a time and in a manner prescribed in said title. That the committee are informed by the gentleman who presented the petition, that such notice has not been given. This circumstance induces the committee to submit to the House the question, whether it will dispense with such notice in the case referred, and if not, the alternative resolution, to discharge the committee from the further consideration of the petition, and that the petitioners have leave to withdraw the same.



IN ASSEMBLY,

March 11, 1831.

REPORT

Of the committee on claims on the petition of Junia Curtiss.

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Junia Curtiss,

REPORTED—

In the years 1825 and 1826, the petitioner performed labor for the State, at the Onondaga Salt Springs, to a large amount, but was unable to effect a settlement with the engineer. In 1830, on his petition, a law was passed authorising the inspector of salt at Salina, to adjust the claim. This has been done, and a balance of \$2,125.71, was found due the petitioner, which has been paid him. He now asks for interest from the time his accounts closed until he was paid.

From the circumstances and the nature of the charges, it seems to your committee, that by the ordinary rules of law, interest could not be claimed of an individual. And when it is considered that the State is presumed to be always ready to pay just demands against it, and that in this instance, on the first application of the petitioner to the legislature, prompt and effectual means were immediately provided to satisfy his claim, the reasons for refusing an allowance of interest in this case, would appear to be stronger than any which could be urged by an individual. Your committee concur in the general views of the Comptroller, contained in a letter to them, which has been communicated to the House, on the subject of allowing interest; and while they admit that the case of the petitioner is severe, they can not recommend the establishment of a precedent to

afford him relief, which they think would be incorrect in principle, and highly injurious to the interests of the State.

The committee recommend to the House, the adoption of the following resolution.

Resolved, That the prayer of the petition of Junia Curtiss ought not to be granted, and that he have leave to withdraw the same.

IN ASSEMBLY,

March 15, 1831.

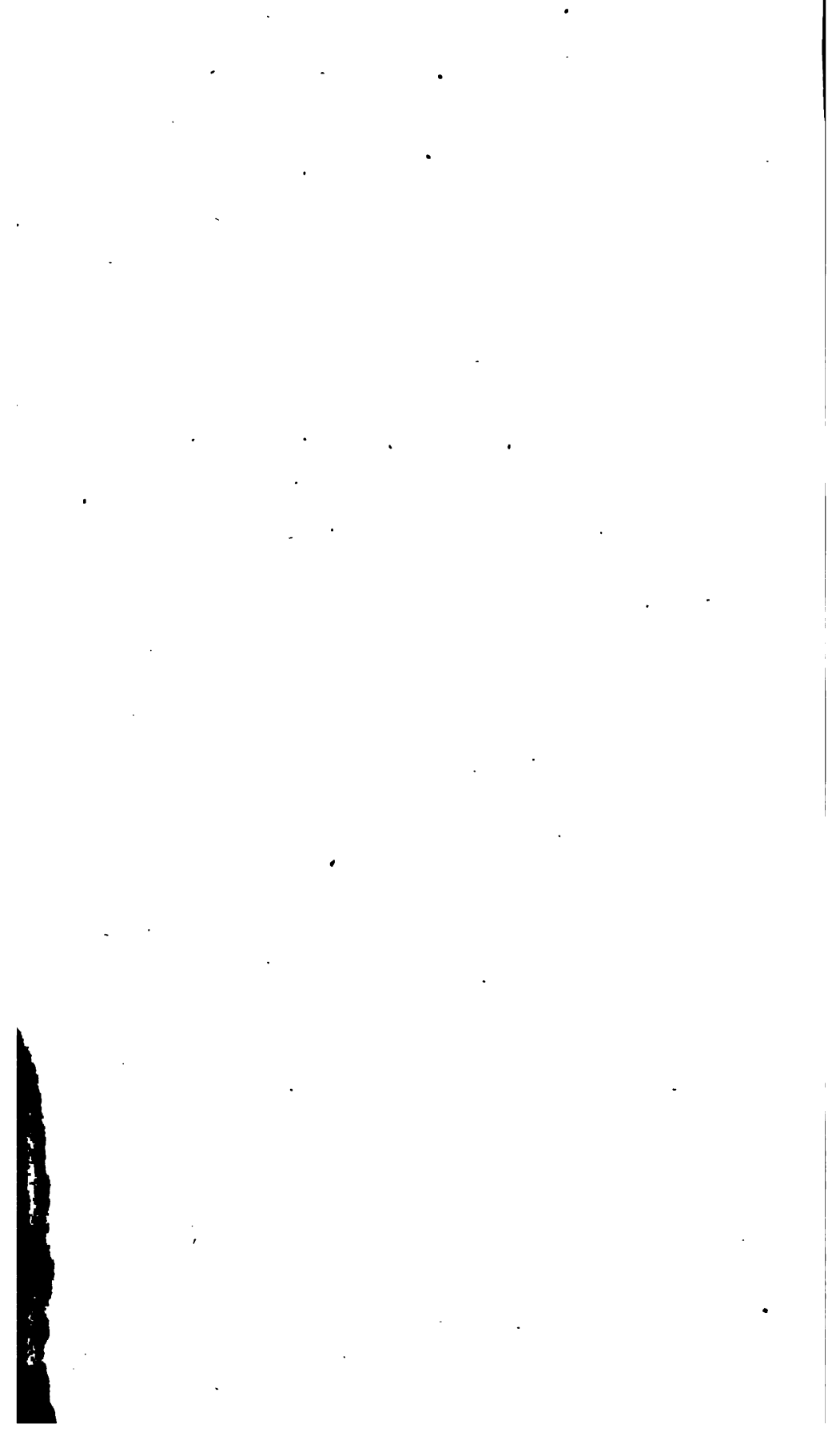
REPORT

Of the select committee on the petition of inhabitants of the village of Buffalo.

Mr. Fillmore, from the select committee to whom was referred the petition of the inhabitants of the village of Buffalo,

REPORTED—

That they have had said petition under consideration, and the petitioners allege that the village of Buffalo is very much exposed to fire, and the provisions to guard against it are totally inadequate to effect that object; and that by the present law they can only raise the sum of \$2,000 annually, for all the expenses of said village. — They therefore pray for the passage of a law authorising them to raise the further sum of \$3,000 for the construction of wells and reservoirs for water, and the purchase of fire engines and other apparatus for the extinguishing of fires in said village. The petition is signed by the principal inhabitants of said village, and your committee are of opinion that the prayer of the petitioners is reasonable and ought to be granted, and they have therefore ordered their chairman to ask leave to introduce a bill accordingly.



IN ASSEMBLY,

March 17, 1831.

REPORT

Of the committee on Banks, &c. on the petition of inhabitants of the county of Onondaga, for a bank at Salina.

Mr. Crippen, from the committee on the incorporation and alteration of the charters of banking and insurance companies, to which was referred the petitions of the inhabitants of the county of Onondaga, praying for the incorporation of a bank to be located at Salina in said county, by the name of the "Salina Bank,"

REPORTED—

That the committee have had the said petitions under consideration, and have come to the conclusion that the prayer of the petitioners ought to be denied.

The committee therefore recommend to the House the adoption of the following resolution.

Resolved, That the prayer of the petitioners ought not to be granted.



IN ASSEMBLY,

March 18, 1831.

REPORT

Of the select committee on the petition of inhabitants of the town of Rotterdam, for a law to authorise the trustees of said town to loan out their town monies.

Mr. Carroll, from the select committee to which was referred the petition of the freeholders and inhabitants of the town of Rotterdam, in the county of Schenectady, praying for a law to authorise the trustees of said town to loan out their town monies,

REPORTED,—

That the petitioners state in their petition that the said town is possessed of a considerable estate, consisting in monies, due on bonds and mortgages, promissary notes, and for quit-rents; and that it would be for the interest of said town if the trustees thereof were authorised to loan out the town funds upon interest, and that said town were prohibited from expending any part of the principal of their estate. And the committee being of opinion that the prayer of the petitioners is reasonable and ought to be granted, have directed their chairman to introduce a bill accordingly.

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THE JOURNAL OF THE

ROYAL ANTHROPOLOGICAL INSTITUTE

OF GREAT BRITAIN AND IRELAND

1911

VOLUME LXXI. PART I. 1911. PUBLISHED BY THE INSTITUTE, 21, BEDFORD SQUARE, LONDON, W.C.1.

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1911

No. 327.

IN ASSEMBLY,

March 22, 1831.

REPORT

Of the select committee on the petition of the supervisors and others of the county of Ontario.

Mr. Rawson, from the select committee to which was referred the petition of the supervisors and other inhabitants of the county of Ontario,

REPORTED—

The petitioners represent that there are numerous and important papers and documents belonging to the surrogate's office of the said county, which should be left in some proper public place; and they ask for the passage of a law directing the erection of a building for that purpose.

The committee believe that an office ought to be provided for the surrogate, and have prepared a bill which they have directed their chairman to ask leave to introduce.

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IN ASSEMBLY,

April 11, 1831.

REPORT

Of the select committee, on the petition of the trustees and inhabitants of the village of Oswego.

Mr. Williams, from the select committee to which was referred the petition of the trustees and inhabitants of the village of Oswego, praying that certain lands may be granted for the location of a marine rail-way in the harbour of Oswego, and the report of the Commissioners of the Land-Office on the said petition,

REPORTED :

It is stated in the petition, that the construction of a marine rail-way in the harbour of Oswego would be of great benefit and public convenience. No establishment of this description exists at any of the ports on Lake Ontario, and there can be no doubt that the extensive and increasing navigation on that lake requires one. The harbour of Oswego seems peculiarly adapted for such a purpose, and the committee concur with the Land-Office in recommending that a sufficient grant of land, belonging to the State, be made. A bill has accordingly been prepared, authorising such grant to be made under proper restrictions, and leave is now asked to introduce the same,

IN ASSEMBLY,

April 12, 1831.

REPORT

Of the select committee to whom was referred the report of the Comptroller respecting the Cayuga Marshes and Swamp Lands.

Mr. J. C. Spencer, from the select committee to which was referred the report of the Comptroller respecting the Cayuga marshes and swamp lands,

REPORTED :

That it appears from the report of the Comptroller and the testimony accompanying it, that great irregularities have prevailed in the mode of disbursing the monies intrusted to the commissioners for draining the Cayuga marshes, and in the mode of keeping their accounts. Your committee do not feel called upon to determine the various questions presented by the report, respecting the liabilities of the commissioners and their treasurer. As they depend upon legal principles and on a state of facts which cannot be ascertained by any exparte examination, it would be unjust either to the officers implicated, or to the State, to prejudice a judicial investigation by the expression of an opinion either by this committee, or by the Legislature. No reason can be perceived, why the claims of the State, in this case, should not be referred, as in other cases, to the Attorney-General, to determine whether they are such as can be maintained in a court of law ; and if he finds them of that character, to direct him to proceed accordingly. The committee, therefore, submit the following resolution :

Resolved, by the Senate and Assembly of the State of New-York, That the Attorney-General proceed in the manner provided by law to recover of the commissioners heretofore appointed to drain the Cayuga marshes, and of their treasurer, all sums of money for which they or any of them are accountable to the people of this State.

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IN ASSEMBLY,

April 12, 1831.

REPORT

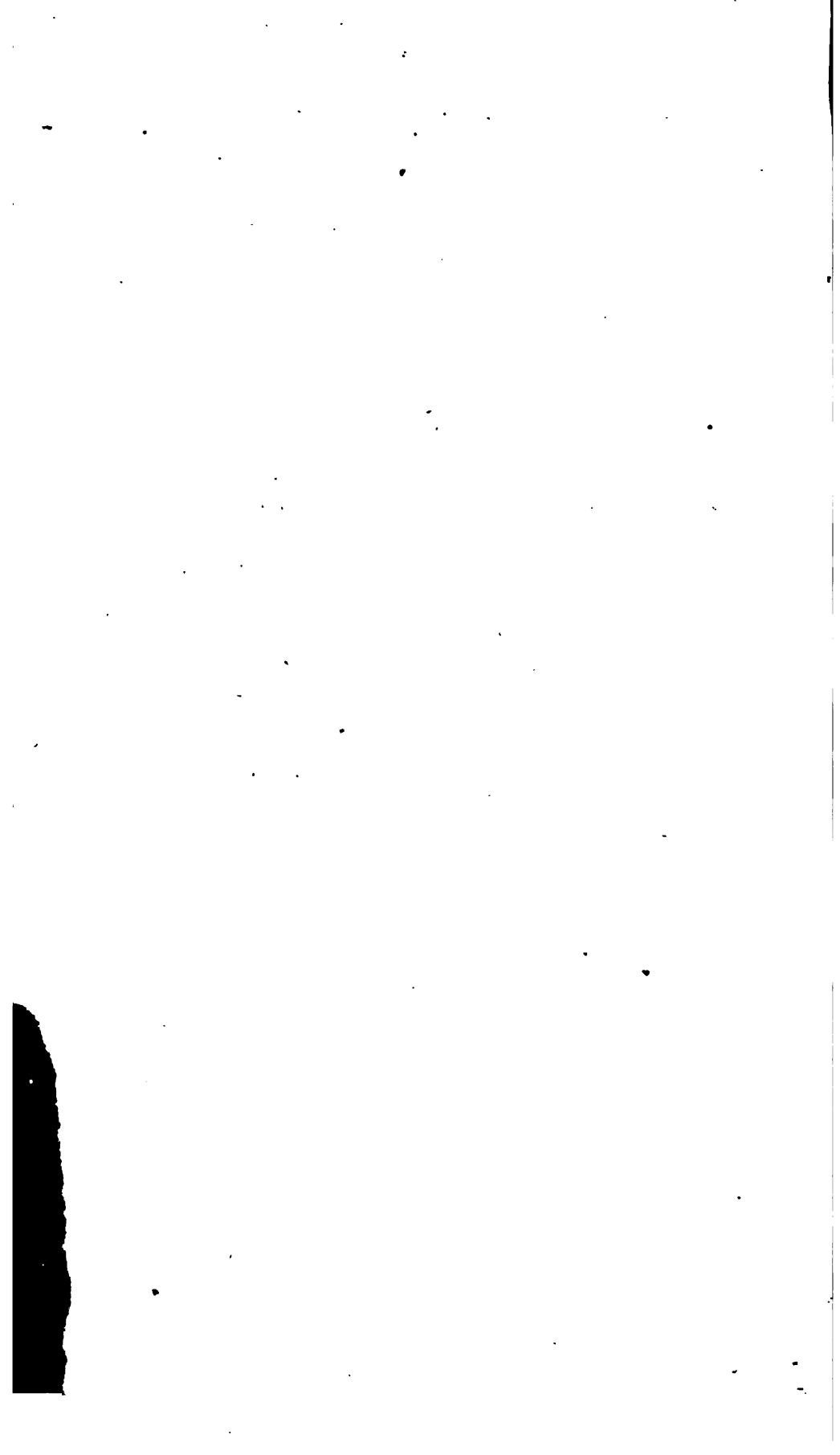
**Of the bank committee, on the resolution relating to
the Life Insurance and Trust Company.**

STATE OF NEW-YORK, }
In Assembly, February 24, 1831. }

RESOLVED, That the committee on the incorporation and alteration of the charters of banking and insurance companies, be instructed to inquire and report to this house the nature and extent of the powers and privileges possessed by the New-York Life Insurance and Trust Company, and the mode in which they have exercised them; and into the propriety of repealing or modifying the charter of said company, in such manner as to deprive it of the power of exercising banking privileges, if they now have such banking powers.

By order.

FR. SEGER, Clerk.



REPORT, &c.



Mr. Gansevoort, from the standing committee on the incorporation and alteration of the charters of banking and insurance companies, to which was referred a resolution adopted by this house, on the 24th day of February last, instructing this committee to inquire and report the nature and extent of the powers and privileges possessed by the New-York Life Insurance and Trust Company, and the mode in which they have exercised them; and into the propriety of repealing or modifying the charter of said company in such manner as to deprive it of the power of exercising banking privileges, if they have such banking privileges,

RESPECTFULLY REPORTS:

That the said company was incorporated on the 9th March, 1830, with a capital of one million of dollars, to be invested in bonds and mortgages on unincumbered real estate within the State of New-York.

That in addition to the general powers and privileges of a corporation, as declared in the 18th chapter of the Revised Statutes, the said corporation have the power to make insurance on lives; to grant and purchase annuities; to make any other contingent contract involving the interest of money and the duration of life; to receive moneys in trust; to accumulate the same at such rate of interest as may be obtained or agreed on, or to allow such interest thereon as may be agreed on, not exceeding in either case the legal rate: to accept and execute all such trusts of every description, as may be committed to them by any person or persons whomsoever, or may be transferred to them by order of the Court of Chancery, or by a surrogate.

All the corporate powers of the company are exercised by a board of trustees, their officers and agents. The trustees have a discretionary power of investing the premiums and profits received by the company, and the moneys received by them in trust; in public stocks of the United States, or of any individual State; or in the stock of any incorporated city, or of the bank of the United States, or in such real or personal securities as they may deem proper.

But the said company shall not hold stock in any private incorporated company, beyond twenty-five thousand dollars.

By the eighteenth section of the act of incorporation, it is made the duty of the board of trustees to exhibit annually to the Chancellor, on such day as he shall appoint, a full statement of their affairs, in such form and verified in such manner as the Chancellor shall direct.

For the purpose of obtaining information as to the mode in which the said corporation had exercised its powers and privileges, your committee deemed it proper to ascertain whether the annual report, required by the act, had been made to the Chancellor; and a note was addressed to the Chancellor, on the 26th of February last, by the chairman of your committee, to which the following answer was received:

Monday morning, February 28, 1831.

DEAR SIR—

I have just received your note, inquiring whether the Life Insurance and Trust Company had made the report required by the 8th section of the act for the incorporation of that company. By a reference to the act you will perceive that the trustees are to exhibit their annual report at such time, and in such form, as the Chancellor shall direct. It was but a short time since that my attention was called to this provision; when I began to make the necessary inquiries, what would be proper for the Chancellor to require them to communicate in their annual report. I have not yet had leisure to give the necessary instructions to the company, and of course they could not make the report required. As the company has recently commenced operations, I did not suppose their report at this time was of sufficient importance to the public to justify me in neglecting the interests of the numerous suitors whose causes were before me; but I shall take the first leisure moment to settle a form which will produce a report containing the most ample information as to the operations of the company. It is my intention hereafter to fix the time for exhibiting their annual report, as early as the month of January; that the Legislature may have the benefit of the statement during their session. In the mean time, if the committee will suggest any information they wish to obtain, to enable them to act upon the resolution of the Hon. the Assembly, I will direct the company to

furnish their report for the present year without delay, and in such form, as may be necessary to obtain the information desired.

I am, with respect, yours, &c.

R. HYDE WALWORTH, *Chancellor.*

Hon. P. GANSEVOORT, *Chairman*
of the committee on Banks, &c.

Your committee, in reply thereto, on the same day, addressed the following letter to the Chancellor.

BANK COMMITTEE OF THE ASSEMBLY, }
Albany, 28th February, 1831. }

DEAR SIR—

I have laid before the committee your letter of this morning, relating to the Life Insurance and Trust Company ; and in obedience to the direction of the committee, have the honor to transmit to you, herewith, a resolution embracing the full extent of the inquiry referred to them by the Hon. the Assembly.

Should the Chancellor be of the opinion that the provisions of the act incorporating the company, do not authorize him to direct an exhibit which will contain all the information required by the accompanying resolution, the committee wish to be advised of the limits to which the powers of the Chancellor, in this matter, are confined.

I have the honor to be, the
Chancellor's friend and servant,
PETER GANSEVOORT, *Chairman.*

The Hon. R. HYDE WALWORTH,
Chancellor of the State of New-York.

BANK COMMITTEE OF THE ASSEMBLY, }
Albany, 28th February, 1831. }

Resolutions communicated to the Chancellor.

Resolved, That the " New-York Life Insurance and Trust Company," be required to report, without delay, a statement, verified by the oath of the president, of the affairs of the said company, particularly specifying the number of lives upon which insurances have been made, together with the total amount of such insurances ; the number and amount of annuities purchased or sold by said company ; the total amount of money received in trust or on deposit ; the manner in which the same has been invested, whether in public stocks of the United States, or of any individual State, or in the stock of any incorporated city ; or of the bank of

the United States ; or in the stock of any private incorporated company ; or upon bonds and mortgages, and the amount thereof invested in personal securities, together with the nature or kind of such personal securities, whether by bills, notes, or how otherwise ; and that in stating the nature of their loans, and the mode in which they have been made, and the character of the securities taken by the said company for said loans, they state distinctly what proportion of such loans are secured by bonds and mortgages, and what proportion are bills or notes ; what time such mortgages had to run, and what time the bills or notes had to run at the times the loans on them were made ; and generally every kind and description of securities on which loans have been made, and also the amount of the loans at this time.

PETER GANSEVOORT, *Chairman.*

On the 2d day of March last, the Chancellor caused the following order to be entered in the office of the Register, a copy of which was, by direction of the Chancellor, furnished to your committee.

At a Court of Chancery, held for the State of New-York, at the city of Albany, on the second day of March, in the year one thousand eight hundred and thirty-one:

PRESENT :

REUBEN H. WALWORTH, *Chancellor.*

*In the matter of the New-York
Life Insurance and Trust Company. }*

Pursuant to the provisions of the act, entitled "An act to incorporate the New-York Life Insurance and Trust Company," passed the ninth day of March, one thousand eight hundred and thirty, it is ordered that the board of trustees of the said company exhibit to the Chancellor at the office of the register, in the city of Albany, as soon as may be, and before the first day of April next, a full statement of the affairs of the said company, as the same existed on the first day of March, instant, and verified by the oath of the president of the said company ; which statement shall exhibit the amount of the capital stock of the said company which has been called in, and the manner in which the same has been vested and secured, and the amount, if any, which remains uninvested, and the reason thereof: The number of stockholders of the said company, and the number

of shares held by each, but without specifying the names of the stockholders: The amount or value of the real estate held by the company, and a general description thereof, and where situated: The number of lives upon which insurances have been made, and the total amount of such insurances, and of the premiums received thereon: The number and amount of annuities purchased and sold by the said company: The total amount of money received in trust or in deposit, distinguishing between the two under orders of the Court of Chancery or otherwise, and the manner in which the same has been invested, whether in public stocks of the United States, or of any individual State, or of any incorporated city, or of the bank of the United States, or in the stock of any private incorporated company, or upon bonds and mortgages, and the amount, if any, invested in personal securities, and whether in bills of exchange, notes, or how otherwise; specifying particularly what part of the said loans are vested in each particular kind of stock, public or private, the amount secured by bond and mortgage, and the amount in bills, notes or other personal securities, and the amount of funds on hand exclusive of the capital stock of the said company which remains uninvested, with the particular reasons which have induced the company to invest their funds in one kind of securities in preference to another, or which have rendered it necessary for them to put out their funds on temporary loans instead of more permanent investments. And it is further ordered, that if the said trustees shall be able to make such specification within the time limited for furnishing the said statement; that they also specify particularly the amount of each loan made by them, the time when made, the nature of the security taken therefor, and the time when the same become payable, or will become payable, but without stating the names of the persons to whom such loans were made, or who are parties to such securities; and if they are unable to furnish the last mentioned specification within the time limited, that they state the particular reasons which render it impracticable for them to furnish the same within the time specified. And it is further ordered, that the said trustees insert in the said statement such other facts and details as may be necessary to enable the Chancellor to form a correct opinion as to the manner in which the affairs of the said company have been conducted and managed; and that they annex to the said statement a copy of all the bye-laws and regulations of the said company.

Copy,

JAMES PORTER, Register.

On the 30th of March, your committee received from the Chancellor the following communication:

Albany, March 30th, 1881.

SIR—

The trustees of the New-York Life Insurance and Trust Company have sent to the Chancellor their annual report, as directed by the order. The original is filed with the register, and a copy thereof has been transmitted to the Comptroller as required by law. The agent of the company has also employed the register to make a copy of the report for the use of your committee, and to send it to you as soon as it can be completed. The report is long, but you will probably be furnished with the copy in the course of tomorrow. From the report it appears the company have been endeavoring, in good faith, to vest the whole of their capital in permanent securities by bond and mortgages; and that they have succeeded in loaning a very large proportion of the amount upon real estate in the country. As the company have but recently commenced operations, I do not deem it useful to refer the report to a master at this time. It is my intention, hereafter, to require the annual report to be made in the month of January, embracing all the concerns of the company, up to the 1st of that month. And I shall make it an invariable rule, under the authority given by the 18th section of the act of incorporation, to refer such statement to some intelligent and faithful master, who is well acquainted with monied transactions, with directions to make a full and thorough investigation of the affairs of the company.

I am with respect,

Yours, &c.

R. HYDE WALWORTH, *Chancellor.*

(A copy,)

J. W. R. BROMLEY, *Ch's Clerk.*

Hon. PETER GANSEVOORT,

Chairman of the bank committee

of the Assembly.

Your committee have recently received from the Chancellor a copy of the report made to the trustees of the said corporation, in obedience to the said order, and herewith present the same to the House.

It appears from the report, that the sum of \$821,900.14 of the capital has been invested on bonds and mortgages, leaving the sum

of \$178,099.86 of the capital to be invested, which the trustees believe will also be invested in the course of a short time.

The company had received in deposit, on the 24th day of March last, the sum of one million twenty-eight thousand six hundred and ninety-two dollars and one cent, a large amount of which has been constantly loaned, payable on demand, secured by stocks; but it appears that the greatest portion of the loans of the company have been made on notes at sixty and ninety days, and at 4, 5, 6, 7, 8, 9, and 10 months.

For the particulars of these classes of loans, the committee refer to the accompanying report of the trustees, and merely state that the investments made by the company on stock and personal securities, were on the first day of March last, to the amount of one million one hundred and fifty-five thousand five hundred ninety-four dollars and ninety-four cents, and that \$90,558 had been loaned on notes of sixty days, and \$115,925 on notes of ninety days.

It also appears that the company has insured forty lives, and received therefor the sum of \$6,975.53.

That the company has purchased no annuity.

That the company has sold an annuity, amounting to \$150 per annum, and received therefor the sum of \$1,185.

That the company holds no real estate whatever.

That the company has never drawn a bill of exchange, nor purchased a bill, nor taken a foreign bill as security.

That the company has received in deposit, from the Court of Chancery and Surrogates, the sum of \$38,132.25, bearing interest from the day of deposit, and secured by the capital of the company.

As the report of the trustees is very long, your committee believe that the object of the resolution will be more fully and satisfactorily attained by a reference thereto, than by a detailed examination by your committee, which would lead to unnecessary prolixity.

Your committee are unanimously of the opinion, that the affairs of the said corporation have been faithfully conducted, and that its operations have been confined within the powers and privileges of its charter; but as large sums of money have been invested by the company on personal securities at short dates; and as it was

not intended by the Legislature that the operations of the company should be extended to the peculiar and legitimate business of the chartered banks, your committee suggest the propriety of restraining the company from making such investments on promissory notes, or bills of exchange, for any period less than six months.

The Chancellor has full power, by the 19th section of the act, to enforce such prohibition.

Your committee have, therefore, directed their chairman to ask leave to offer for the consideration of the House, a resolution in accordance with their views.

Respectfully submitted.

PETER GANSEVOORT, *Chairman.*

Resolved, That the Chancellor be requested to recommend to the New-York Life Insurance and Trust Company, that they so amend their by-laws, as to prohibit any investment by the said company, on bills of exchange or promissory notes, for any period less than six months.

REPORT.

The Trustees of the New-York Life Insurance and Trust Company, in answer to the Chancellor's order of the 2d of March, exhibit the following statement.

The capital of the corporation is a million of dollars, divided into shares of one hundred each. The whole of the said capital is to be invested in bonds and mortgages, on unincumbered real estate within the State of New-York, and at least one half of it is to be constantly invested on real property without the limits of the city and county of New-York.

The real property to secure any investment of capital, in every case, is to be double the sum charged thereon.

The books for subscription to the stock were opened on the 7th of May, 1830. Ten per cent on the amount subscribed, was paid in on that day. Desirous to leave nothing undone towards the faithful performance of the duty imposed on them by the act of incorporation, of investing their capital on real security, the trustees, at a meeting held the 12th of April, 1830, twenty-five days before the money was paid in, appointed Isaac Bronson, Stephen Whitney, Nathaniel Prime, and Thomas W. Ludlew, a committee, the president being a member of all committees, to invest such portion of the moneys as was directed to be paid on the capital stock at the time of subscription. At the same time an informal advice was given to the committee, not only to engage for loans to the amount of \$100,000, but to contract for other loans, if good ones should offer, and if necessary, to borrow the money to complete them, till the remaining part of the capital should be paid in. The trustees went farther ; and considering that if the stockholders should all take advantage of the permission given them in the charter, to secure their stock by their own bonds and mortgages, on unincumbered real estate, that it would be of little importance to the company what interest the bonds bore, and considering it

their duty to invest their capital as rapidly as they could, on the terms the Legislature prescribed, the trustees, at a meeting, held the 7th May, 1830, *Resolved* :

1st. That the whole amount remaining unpaid on the stock subscribed in this company, be paid to the president thereof, at the office of the company, on or before the 1st day of October next, on pain of forfeiting the payments already made thereon, and that due notice be given of this resolution.

2d. That any stockholder may, on or before the said first day of October next, secure the amount to be paid by him in pursuance of the foregoing resolution, by his own bond, payable in one year, with interest half yearly, at five per cent, which bond shall be secured to the satisfaction of the committee of investments, by mortgage on his own real estate, or by the assignment of other bonds and mortgages, and if the bonds so assigned shall bear a greater interest than five per cent, the surplus of interest shall be refunded, from time to time, to the said stockholders respectively, if any such surplus shall be actually received by the company.

The trustees were induced to make the above resolve, from the representations of the loaning committee, who, at a meeting held on the 6th of May, after mentioning certain loans that had been applied for, go on to say, " Though the committee, in agreeing to loan the above sums, believe the property offered to be ample security for the money advanced on it, and that in each instance it is worth double the amount loaned, yet they have to state, that the proposals they have received, with the above exceptions, have not been such as to encourage them to hope that they will have offered to them, particularly in the city, and of a character perfectly satisfactory, proposals for loaning their capital at the usual rate of interest, and on the terms the charter permits. The inactivity of commerce has made money more than commonly plenty, and the charter requiring not more than one half of its value should be loaned by the company on property, prevents the best proposals being made. It is of the first importance, for the reputation of the company and to its security, that its capital should be disposed of in the most unexceptionable manner, and the committee have given their anxious attention to plans for securing effectually this desirable object. The committee recommend the board's offering, as an inducement to the subscribers to the stock, themselves to secure the capital, that they shall be allowed each of them to pay for the stock held by them, in bonds and mortga-

goes at five per cent, with the condition that if the bonds and mortgages are not given by the subscriber himself, he shall secure them by his own guarantee. To enable this to be done according to the terms of the charter, it is recommended that it be ordered that any stockholder, wishing to secure the amount of his stock subscribed, shall, before the first day of July next, sign a contract himself, or by his agent, with the company so to do, and that each stockholder shall, in the first instance, have the right to give a bond and mortgage in the city, or in the country, in the order in which he subscribes the above agreement, till \$500,000 is secured in the city or in the country, and then in that one of them only in which there shall remain a deficiency." Accordingly, by order of the board, the following notice was published in several of the city papers, and in the state paper.

"Notice is hereby given to the stockholders of the New-York Life Insurance and Trust Company, that according to previous notice, each stockholder will be allowed to secure the amount due on his stock on the first day of October next, as stated in the resolution of May 15th, 1830, and inasmuch as the charter requires that one half of the capital should be invested in the country, further notice is hereby given, that each stockholder will be permitted to secure the amount due on his stock, either in town or country, in the order in which, after the 16th day of July, he shall declare in writing, at the office of the company, which he will do; and when a number of stockholders have so declared their intentions, sufficient to make the sum secured in the country and what is already so secured, equal to \$500,000, then the remaining stockholders will only be allowed to secure in the city; and if a number of stockholders first elect to secure in the city what is due by them sufficient to make the amount to be secured, with what is already then secured, equal to \$500,000, then the remaining stockholders will be allowed to secure in the country only. And notice is further given, that each stockholder determining to secure the amount due by him, must, previous to the first day of October, satisfy the committee as to the amount of the security he offers, and the counsel of the board as to title, or the bond and mortgage he offers will not be received in payment on that day.

"The purchasers of stock after the election is made, will take it subject to the election of the stockholder from whom the purchase was made."

This advertisement, and the previous resolutions, induced nineteen of the stockholders only, to take advantage of the offer made them. Money was so abundant in the market, that even the offer of receiving in payment their bonds and mortgages, at five per cent interest, did not afford a sufficient temptation to induce its general acceptance.

Ten per cent had been paid on subscription to the stock,

	\$100,000
Nineteen stockholders secured,	179,600
Cash paid in,	720,400
	<hr/>
	\$1,000,000

In addition to these measures, the trustees, at a meeting, on the 16th June, as soon as they had time to make the proper inquiries, appointed two gentlemen in *Onondaga*, two in *Ontario*, one in *Tioga*, one in *Columbia*, one in *Greene*, one in *Dutchess*, and one in *Oneida*, through whom applications might be made to the company for loans, and in whose opinion as to the propriety and safety of the loans the trustees had confidence. Since then they have appointed other gentlemen, in several other counties, to act in the same capacity. To all or most of these, it is believed, they stated the desire of the trustees to loan their capital as soon as it could be done safely and securely, and their anxiety to receive advantageous and suitable applications. Notwithstanding their exertions, and notwithstanding no loan believed to be sufficiently secured had on the first of March been rejected, that investment is not yet completed, although it is believed it will be, or very nearly so, when all the loans agreed to shall be formally concluded.

The following is a statement of all the investments of capital completed on the first day of March, 1831, and of the amounts loaned in each county as nearly as can be ascertained. The loans being generally for one year, with the understanding that they will be continued as long as convenient to the party borrowing, and while the security remains the same it was at the time of making the loan, and the interest regularly paid.

New-York,	\$118,400
do to stockholders,	73,650
Albany,	27,514
do to stockholders,	78,950
Kings county,	10,000

Columbia,	\$59,019
Ontario,	95,095
Westchester,	11,700
Putnam,	2,000
Oneida,	25,520
Tompkins, about	10,450
Madison,	2,500
Erie,	40,200
Delaware,	600
Monroe,	45,350
Oswego,	12,200
St. Lawrence,	2,300
Saratoga,	18,000
Rensselaer,	3,000
Livingston,	17,650
Steuben,	2,250
Franklin,	5,000
Washington,	4,000
Wayne,	23,229
Cayuga,	8,125
Broome,	1,000
Dutchess,	20,800
Seneca,	12,475
Sullivan,	500
Yates,	11,815
Tioga,	7,150
Montgomery,	9,500
Otsego,	8,000
Herkimer,	9,600
Greene,	3,000
Orleans,	1,000
Niagara,	4,400
Jefferson,	1,000
Chenango,	1,950

On the first of March, therefore, \$785,764 were invested according to the requirements of the charter; since then a further sum of \$36,136.14 has been invested, leaving still \$178,099.86 of the capital uninvested.

This last sum the trustees believe will also be invested in the course of a short time. They have actually engaged to loan be-

yond this sum, but it frequently happens that applicants omit to complete the loans for which they contracted, and it is not improbable there may be a failure of some of the loans now promised. The trustees have done their best to accomplish the investment of their capital rapidly and securely, and believe that the Chancellor will see in the above detail, that their exertions have been unremitting.

In commencing business, and in fixing the rules by which the institution should be governed, the trustees have been anxious to confine their operations to the important objects they had in view when they requested a charter from the Legislature. They had no wish the company should be made use of as a place of deposit for the money employed in the mercantile business of the city or country. It was their object to afford to individuals the means of safely and profitably employing funds destined for the support of children, women, and families; funds in the hands of trustees, or waiting the decision of courts; funds placed with them by order of the Court of Chancery; funds which might be temporarily unemployed, and seeking future employment, or placed with them by the wealthy for the purposes of security and income.

That they might attract these funds, the trustees adopted at a meeting, the 6th of May, 1830, the following by-law :

No sum of money of a less amount than \$100 shall be received in deposit, nor paid out, unless as the balance on an account.

And at a meeting held June 16th, 1830, the following by-laws :

1st. All moneys deposited in trust for a shorter term than one year, shall be deposited for a certain number of months, not less in any case than two months from the date of the deposit.

2d. Interest at the rate of three per cent per annum will be allowed on moneys not deposited for a longer term than four months. Where the term shall exceed four months, and be less than a year, four per cent will be allowed. Where the deposit shall exceed a year, the rate of interest shall be settled by special agreement.

3d. In all cases where the moneys in trust shall not be withdrawn at the expiration of the trust, they shall remain with the company for another period of not less than thirty days, and be allowed the same interest as if originally deposited for the extended period.

4th. When the trust shall exceed a year, interest may be made payable before the principal shall become due, annually, half yearly, or quarterly, as may be agreed on.

5th. When the trust shall be for a shorter term than a year, no interest will be paid until the principal shall become due.

6th. When moneys so deposited in trust for a period less than a year shall have remained in deposit for sixty days, the same may be withdrawn at any time thereafter, and before the period for which the deposit was originally made; but in such cases, no interest will be paid on such deposit.

7th. The above conditions shall not extend to moneys deposited by order of the Court of Chancery, or other court, on which moneys interest will be paid according to the terms of the charter.

Further to induce long deposits, the trustees at their meeting the 4th of January, 1831, determined that they would allow four and one-half per cent for moneys deposited for a year and over.

The trustees also resolved at a meeting held on the 1st of February, that no deposit over \$1,000 should be withdrawn without three days notice.

By the general observance of these rules, the trustees find their deposits are of the character they hoped they would be.

On examination of their books, it appears that on the first of March they had in deposit,

From executors,	\$187,828 00
Trustees of estates,	67,828 00
Chancery and surrogate,.....	20,132 25
Receivers,.....	24,716 00
Banks out of New-York,	320,000 00
Females,	16,064 00
Farmers and residents out of the city,	74,828 00
Lawyers,.....	22,650 00
Physicians,	2,000 00
Thirteen deposits for children, to accumulate,	4,484 12
Teacher,	5,000 00

Amount carried forward,..... \$

Amount brought forward,.....	\$
From individuals not known, and believed, with two exceptions, not to be merchants; one of those two declaring that he deposited the money to pay for a house in the spring, the other that he deposited it for a friend, ..	157,295 84
	<hr/>
	\$912,626 31

It might be supposed that the above sum of \$320,000 deposited by country banks, if not placed in this institution, would have been deposited in the banks of the city; but this is at least doubtful, many of the city banks, it is believed, refuse to allow any interest on balances in favor of country banks, and the funds in question would have been otherwise employed, or would have remained wholly unproductive. The advantages derived both to the banks and to the public from this institution consenting to receive and allow interest on deposits of this character, are too obvious to require to be stated. It is an arrangement which, whilst it is calculated to add greatly to the general security of the banking system, tends not to diminish but to increase its legitimate profits.

Another view of these deposits confirms the fact, that none of them are of a mercantile character. Merchants require the command of their money. The nature of business requires that its funds should be forthcoming on demand. Money, therefore, which is put out of the control of its owner for any length of time, cannot be the money of commerce.

The books of the company show that the deposits, on the 1st of March, with the company, were

For sixty days and over,.....	\$27,012 45
Five months and over,.....	844,188 38
One year and over,.....	36,936 36
To accumulate for children,.....	4,489 21
	<hr/>
	\$912,626 31

A remark may here be made which will account for the large amount deposited for five months and over. The highest interest the company offered in the commencement of its operations, while they were endeavoring to ascertain what their rules ought to be, was four per cent, and to that interest a party had a right who de-

posited for five months. The consequence was, all deposited for five months, retaining the control over their money after that period. It may be necessary to explain farther why the deposits are for five months and not four. It will be perceived that the rule is, "where the term exceeds four months, and is less than a year, four per cent will be allowed." It is another rule, that "all moneys in trust for a shorter period than one year, shall be deposited for a certain number of months." Therefore, to obtain an interest of four per cent, the deposit must be for five months. The increase of interest for deposits of a year, has had the effect of increasing those deposits, and will, in all likelihood, diminish those of five months in proportion.

An evidence of this is, that \$330,326 of the deposits of five months, though the period of deposit has expired, have not been withdrawn. They will probably be continued at the rate of four and one-half per cent, when it is more generally understood the company gives that interest: At present they may be withdrawn after thirty days, on demand.

On the 1st of January, the deposits for a year amounted to \$2,541; on the 1st of March, to \$36,936.36. The increase of yearly deposits will effect the object intended, and enable the company, with safety, to loan a greater proportion of their funds, both in city and country, on bonds and mortgages.

The company's books show that the largest amount of monthly deposits was in the commencement of their business, and that with the exception of deposits from banks, they have gradually decreased since. When the company began its operations, considerable funds in the hands of executors and trustees were probably waiting an investment.

Payments on account of deposits in trust.

In June,	\$
July,	
August,	3,476 23
September,	19,032 57
October,	30,124 52
November,	29,130 00
December,	27,890 00
January,	43,811 00
February to 1st March,	20,100 00

Deposits in trust received.

In June,	\$49,800 00
July,	251,202 52
August,	95,159 45
September,	74,305 65
October, including \$50,000 deposited by bank,...	147,130 65
November,	86,018 08
December, including \$300,000 deposited by bank,.	200,433 47
January, including \$70,000 deposited by bank,...	116,896 94
February to 1st March,.....	39,401 50

Having thus shown the manner in which they have disposed and are disposing of their capital, and the character and nature of their deposits, the trustees beg leave to show the manner in which they have disposed of those funds which have been placed with them in trust.

By their charter, the trustees are authorised to invest the money received by them in trust, in the public stocks of the United States or of any individual State, or in the stock of any incorporated city, or of the Bank of the United States, or in such other real or personal security as they may deem proper, but the said company shall not hold stock in any private incorporated company, beyond twenty-five thousand dollars.

The most suitable and appropriate security for moneys deposited in trust, the trustees believe to be real security, and it has been the uniform sentiment expressed at the board, that they should invest such proportion of their funds as they could with safety to themselves and to the public, in bonds and mortgages. They accordingly loaned, some months since, a portion of those funds, amounting to \$30,500, on bonds and mortgages, and have, for several weeks, been negotiating another loan which, since the first of March, has been completed, amounting to \$130,000, \$90,000 of which is to be paid in the course of the month of March, and the balance in proportion as a certain building to be erected in the city of New-York advances. If the trustees have not gone farther in disposing of their trust money on real security, it has arisen from the circumstance that their whole exertions have been directed to investing their capital. This was the first great object, and every loan thought worthy of attention, where possible, was applied to capital. In loaning trust moneys upon real security, the trustees have determined, unless where the security is most un-

doubted, as a general rule, to follow the provisions of their charter in relation to the capital, and to require that the property shall be at least double in value the sum advanced. No suitable loans of this description, on the 1st of March, had been rejected, but all that had been made had been absorbed by the capital.

Had it been practicable to extend their loans of trust moneys upon bond and mortgage, the trustees would have felt it their duty, in the infancy of the institution, to have abstained, in a great measure, from loans of this description. Such loans it is always expected, will be permitted to remain for a considerable period, and they are thus by their character placed out of the control of the trustees, as funds applicable to payments which the company is constantly bound to meet. It is obvious that only that proportion of the trust moneys can be invested in permanent loans which can be relied on as a permanent deposit, and what that proportion is, time and experience are requisite to show. The trustees would, therefore, have been restrained from extending their loans of this description, by the fear, whilst the institution was young, before the character of its deposits was known, while the great proportion of them was for five months, when experience had not taught whether they were intended for longer continuance, nor what might be calculated on as the average of deposits, and while the company was liable to calls at short notice, that they might be placed in temporary difficulty, and be obliged to urge their credit for the purpose of meeting the demands made on them. It is clearly the interest of the company to invest on bond and mortgage. Beside the better security, a higher interest is obtained both in city and country for loans on bonds and mortgage, than for loans on personal security in the city, where vast capitals in the hands of individuals, imported capital from Boston and other cities, the funds of insurance offices, banks, and other companies, coming together in the market, create a competition, and reduce interest to the very lowest rate.

For these reasons the trustees have been anxious to invest their trust money in bonds and mortgages, and to go as far in doing so as they can with prudence. But were they to do it hastily, and before they had ascertained how far they could go with safety, they might be brought into the necessity of borrowing large sums, which would be injurious to their reputation, or of oppressing

their debtors on bond and mortgage, by demands for immediate payment, which they earnestly wish to avoid.

In the commencement of its operations, the company had thrown upon it a large amount of moneys, which had probably been lying idle for the want of some safe investment. This, coming at the same moment when they were engaged in seeking investments for their capital, forced upon the company the necessity of investing a larger proportion of their trust money in personal securities, than it will be their interest or inclination to do in future.

That the investment of a certain proportion of their funds in personal securities, has been, and will at all times be necessary, to the utility and safety of the company, and that its business cannot be conducted without the power to do so, it is scarcely necessary to show to those acquainted with the operations of a monied institution.

The trust company undertakes to allow an interest on all moneys deposited with them. To enable them to meet the payment of this interest, the trustees must find an immediate employment for the funds left with them, nor could they afford to wait the slow progress of investment in bonds and mortgages. How slow this is, will be seen by a reference to the statement which has been made of the progress of the company in investing the capital. The deposits in trust amounted, on the first of March, to \$912,626.31; the interest on almost the whole of this allowed to depositors, is four per cent, and amounted on the 1st of March, to about \$12,462.20. What would have been the situation of the company had the trustees allowed this money to lie idle, or had they been forced to wait until they could have disposed of it on landed security? It is not difficult to see that a dependence on investments in real securities alone, would, without reference to other objections, by the mere operation of an interest accumulating against it, lead to its ruin.

The trustees, at one of their earliest meetings, took into consideration the subject of investments in personal securities.

The first question to be decided was, whether it was prudent for them in the situation in which the stock market then was, to

invest in such stocks as they were authorised to invest in, and the trustees decided that it was not.

It is well known, that owing to the increased capital of the country, the very low price of every article of commerce and necessary of life, and to the great accumulation in New-York of foreign capital from Boston and other cities, as well as from Europe, there has been, ever since the company began its operations, more money in the New-York market than its wants required. The holders of this capital, a great part of it intended for future mercantile operations, desirous of finding for it a temporary employment, have contributed, by contending for them, to raise all the stocks of the country to an unusual price, and to one which they will not probably sustain, should there be a favorable change in the commercial concerns of the country. That such a change was not improbable, the trustees determined from the disturbed state of Europe; nor did they think it impossible that a very short time would elapse before a call might be made for all the resources of our merchants to supply the armies and population of that part of the world with those necessities which our fertile and happy country would abundantly supply. Should this be the case, it was the opinion of the trustees, that the stocks of the country would be thrown in large quantities into the market, and in the struggle of the mercantile portion of society to realize their capital, that they would necessarily fall. The trustees, on examination found, that what with the expenses of brokerage in the purchase and sale, and what with the high price of the best stocks, there were few the purchase of which would enable them to realise the interest they were paying to their depositors. That besides this, they must run the risk, almost amounting to certainty, of their future fall. They determined it was their duty to be safe, that they were bound to run no risk which they could avoid, and that the reputation of the institution forbade their entering, on any occasion, into the field of speculation. They, therefore, determined not to become the purchasers of stock, excepting in one instance, where a whole loan to the city of Albany, amounting to \$60,000, bearing an interest of five per cent, was offered to them on the 21st of last July, at an advance of one per cent. This being a stock not in the market, perfectly secure, where the interest, though small, would be paid regularly, and offered nearly on the original terms of the loan, the trustees considered a prudent and safe investment, and therefore took it from the party who had

contracted for the loan. With this exception, the trustees have invested none of their money in stocks. Had they done so, it must have been with the intention either of holding the stocks purchased by them as a permanent investment, and then, after having bought when the market was the highest, they must have run the risk of a depreciation, and of the accidents attending that species of property, or they must have done so with the intention of watching the rise and fall in the market, of selling, buying, and exchanging, as their judgment or information might direct, and of entering upon all the chances and anxieties of stock-jobbers. The first, as has already been shown, would have been opposed to that safe system which it is the wish of the trustees to pursue, and the latter would have been inconsistent with the objects and principles of the institution.

That it would be unsafe to invest the whole of their deposits in real securities while they were liable to calls at the end of a few months for the deposits of individuals, and while they were liable on demand for deposits made by order of courts or the Chancellor, which they had subjected themselves to for public convenience. The impossibility of investing on real estate rapidly, and the consequent ruin if attempted, together with the circumstances which made it imprudent to purchase stocks, rendered it incumbent on the trustees to seek investments on other personal securities.

As to their power thus to invest the funds in question, the trustees neither did nor could entertain a doubt. The terms of the charter are express and free from all ambiguity. As the section which authorises the trustees to invest the moneys received in trust in real or personal securities, had already given a qualified right of investment in every species of stock, public and private, the personal securities referred to could in their judgment only mean bonds, promissory notes or other evidences of debt, creating a personal liability, and not accompanied by a pledge of real estate. There is no other construction that can give effect to the words, nor (until rumor informed them it had been,) did the trustees suppose that either the existence of this power, or the propriety of its exercise, could ever be drawn in question.

The trustees, therefore, took into consideration the safety of loaning on the personal security of individuals, and they came to the conclusion, that the personal security of men of known character and wealth, especially when the loan was made payable within

a moderate period, was among the safest and best which the country afforded, and if not quite equal to the security of real estate, approaching very near to it.

On the receipt of money by the company, it has been the practice to find for it an immediate investment, by offering it at a low rate of interest, frequently at four per cent on a note payable on demand, and generally secured by stock. In this situation it has been permitted to remain till an opportunity has offered of disposing of it on more favorable terms. When such opportunity has occurred, the money has been called in, and beside loaning on real estate, the trustees have loaned on the simple bond of the party, or if notes have been offered them, they have taken notes, deducting the interest at the time the note was taken, but without the responsibility of the individual to whom the loan was made. They have also loaned on notes, the interest payable at the end of the term for which the notes were given, taking as collateral security either some stock considerably below its market value, or a number of notes of individuals, or a single note if it was believed to offer an ample and sufficient security. All notes belonging to the company are placed in the Manhattan bank for collection; if the notes given or the collaterals are paid, the amount is credited to the borrower, and his debt cancelled or returned him. In these, and these modes only, have the company invested in personal securities. In all instances they have been satisfied, provided they obtained perfect security with a moderate rate of interest, often four per cent, generally five or five and one-half; nor have they, in any one instance, where they have invested money in personal securities, received beyond six and one-half per cent, and that only on a small amount where the length of the loan was eight and ten months, and the consequent increase of risk warranted them in doing so. That the trustees have not been mistaken in the security they have taken, is proved by the circumstance that they have not lost a dollar, in any of their transactions, since the commencement of their operations.

On examining the books of the company, it will be found a large amount has constantly been loaned, payable on demand, secured by stocks which may be considered in the nature of a deposit.

Of this class there was loaned in the month of

June, \$8,000 00

July, 126,832 00

[A. No. 331.]

August,	\$92,874 96
September,	158,675 52
October,	293,729 06
November,	230,879 16
December,	253,543 19
January,	182,168 76
February,	152,100 76

Besides these, the greatest portions of the company's loans have been made on notes having 4, 5, 6, 7, 8, 9 and 10 months to run.

On the 1st of March, the notes to the company were in the following proportion :

Notes of sixty days,	\$90,558
Ninety days,	115,925
Four months,	123,323
Five months,	151,063
Six months,	231,193
Seven months,	146,590
Eight months,	68,707
Nine months,	44,780
Ten months,	6,364

Such long notes, though inconvenient if not unsafe in the operations of banking, are not so in the operations of a trust company, where the deposits are for long and limited periods, where an interest is paid for such deposits, where no notes are issued, where there is no circulation, where nothing can be withdrawn without notice, where there is no risk of sudden demand, and where the capital is not only paid in, but invested on real security; such notes to such a company have no danger in them, while a bank which deals in them is continually threatened with calls for funds, placed beyond their reach by this disposal of them on long loans.

In further reply to the inquiries made by the Chancellor, the trustees answer :

1st. That it is believed that much the greatest portion of the stock is out of the market, and held by individuals who intend holding it as a permanent investment. That the present number of their stockholders is 131, of whom 27 are females, trustees or miners, holding 734 shares; 25 are residents out of the city, holding 2,638 shares, and the remainder are chiefly, it is believed, resi-

dents of the city of New-York, though many are not known or ascertained to be so.

2d. That the company hold no real estate whatever.

3d. The company had, on the 1st of March, insured 37 lives, and have received for insuring the same, \$6,817.13; should all the parties die within the period of insurance, they will be liable to pay ninety-seven thousand nine hundred dollars. It will be proper here to mention, that the sum of \$6,817.13 is not the annual amount paid for the insurance of ninety-seven thousand nine hundred dollars, but includes the full amount paid down on the insurance of the whole lives of two of the parties insured. This branch of the company's business has received the unremitting attention of the trustees, and they have been gratified in finding both by the gradual increase of insurance, and the inquiries made at the office that it is attracting more and more public attention. In a subsequent part of this report it will be found that additional lives have been insured since the 1st of March. It cannot be doubted but as the security which insurance offers to families, and the comforts it brings to old age are better understood, the company's utility will be equal in this with what it is in the other branches of its business. It was to be expected that some time would be required before information could be generally extended on a subject so new. The progress of the Equitable Society in London, which now secures comfort and independence to a large population, was not greater in its commencement than that of the New-York Life Insurance and Trust Company. Its actuary, in a short history of that society, published in 1829, states, "that at the first meeting at the White Lion, in Cornhill, only four assurances were made; and in the course of the first four months, their number did not exceed thirty, nor did the whole of the sums assured amount to more than £5,100." This company has not been in operation a much longer time, has insured more lives and to four times the amount. It has been suggested that the company's tables are higher than the safety of the company requires. The subject is too important a one not to have attracted the serious attention of the trustees. If the tables are too high, it prevents insurance; upon the number of the insured depends the safety of the company. While it is few, the risk is great. It is decidedly the interest, therefore, of the company to encourage insurances by making the tables as low as by any prudent calculation they can be made. The tables by which the company have been governed

in their insurances, are the same with those which have been used for fifteen years in Boston, and Philadelphia, and for 100 years by the Equitable in London. The insurance of lives was a subject new to the trustees as well as to the State, and in the commencement of their operations they were unwilling to vary from what the experience of others deemed prudent in fixing the rate of insurance. Having been informed that the Philadelphia company proposed to lower their rates, the president of this company has had a correspondence with the actuary of the Philadelphia office on the subject of the rates which it would be prudent to adopt in this country. He has also received from the actuary of one of the offices in Paris, his manuscript calculations and observations on the rates used there.

The trustees only wait the fulfilment of the promise of Mr. Roberts, the actuary in Philadelphia, to forward to them his views and corrected tables, to decide on the proper alteration in their own, if prudent to make any. The whole subject is at present under the consideration of the board, and of the committee appointed by the following resolve :

At a meeting of the trustees held 3d day of September, 1830,

Resolved, That the duty of advising the president in relation to the insurance on lives and granting annuities be performed by the committee of trusts, consisting of *James Kent, Gulian C. Verplanck, John Duer, and Thomas J. Oakley.*

4th. The company has purchased no annuity.

5th. The company has sold an annuity amounting to \$150 per annum, and received for the same \$1,185.

6th. The company had received on the 1st of March, from the Court of Chancery, its clerks and surrogates, in deposit, \$20,132.25, which amount has been blended with the other moneys in trust, is payable on demand, and bears an interest from the day of deposit, and with the other moneys in trust, is secured by the capital of the company.

7th. The company has never drawn a bill of exchange, nor purchased a bill, nor taken a foreign bill as security.

8th. The company had invested on stock and personal securities, on the 1st March, \$1,155,594.92.

The Chancellor has ordered, "that if the trustees shall be able within the time limited for furnishing the statement, that they also

specify particularly the amount of each loan made by them, the time when made, the nature of the security taken therefor, and the time when the same becomes payable or will become payable.

The trustees believe they have answered all that is material in this order, though they have not added the specific amount of each loan, nor the time when made, nor the time when each will become payable.

To make such a statement would require the copying a large portion of one of their books, and considerable time and labor. The trustees will, however, immediately direct it to be done, should the Chancellor still desire it, and not think sufficient the general information that has been given.

The trustees further add, that the copy of the by-laws sent with this report, signed by the president, is a complete copy of all their by-laws, and the copy of the resolutions also sent, and signed by the president, is a copy of all the resolutions passed at the board which the trustees think important, or that the Chancellor could wish to have.

The trustees intended, before the first year of the company's operations expired, to have requested of the Chancellor his directions as to the manner in which he wished they should make their annual report, and to have solicited from him the appointment of one of his masters, to examine and verify the report when made.

With regard to the profits of the company, it is impossible to say what they will be. If the company divide the first year of its operations, six per cent, it will be the extreme of what they will be able to do, and more than they are likely to do. Its permanent expenses are more easily ascertained.

The expenses of the company are :

City tax,.....	\$4,000 00
Salary of president,.....	2,500 00
" secretary,.....	2,000 00
" clerk,.....	500 00
Rent of building, unusually and accidentally cheap,.....	1,000 00
Stationary, fuel, postage, and extra expens- es, may be put down at,.....	500 00
	<hr/>
	\$10,500 00

The counsel and attorneys to the board receive no salary, nor any other compensation than what they receive in the usual course of their professional business. The safety of the company, and the security of its investments on real estate, depends altogether on the title being perfect of the party applying for a loan, to the property he proposes to pledge, and on its value. It has been thought by the trustees, just and reasonable, to adopt the universal practice of the city, and of the country, and to require of the borrower that he should bear the expense necessary to show his title to be perfect, and free from all incumbrance. Besides the propriety of this rule, a contrary practice would expose the company to the imposition of examining a great number of defective titles, and possibly for no purpose but to have their errors ascertained that they may be corrected.

With regard to the agent of the applicants to the company for loans, whether it be one of those gentlemen whom the trustees have pointed out as persons in whom they have confidence, or whether it be one of the borrower's own choice, the trustees have no means of controlling him in charging for his services, but by their urgent advice to the former, that he will make his charges moderate, and not beyond what a proper remuneration makes necessary, and this the trustees are assured is done.

With regard to the counsel of the board, on whose learning, vigilance, and accuracy, the best interests of the company depend, the trustees have been informed and believe, that their charges are below what is usual in the city, and that in no instance have they asked or received more than a reasonable and moderate compensation for any service rendered by them. It must, the trustees believe, occur to others, as it does to them, that whatever confidence may be due to the talents and learning of the bar of this State, it would be the height of imprudence in them to trust the examination of titles, intricate as they frequently are, to counsel selected by the applicant. They have thought it their duty to appoint their own counsel, one in Albany, and one in New-York, and to make them responsible for the titles to the property on which loans are made, and for legal advice in the affairs of the company. That they should pursue this course, the trustees thought they owed to their reputation, to the interests of the stockholders, and still more to the interests of those who have trusted their property with them, and who place confidence not

only in the integrity, but in the ability with which the affairs of the company are managed. In selecting their own counsel, and depending for legal advice on them alone, the trustees believe they will meet with the approbation of the Chancellor, and of all prudent and candid men.

Desirous of giving every information to the Chancellor within their reach, the trustees venture to state to him the proceedings of the company subsequently to the first, as low down as to the 23d day of March, which on examination is found to be as follows :

March 24, 1831.

Additional Statement.

Deposits of Trust, since 1st instant.

By commissioners, \$59,500 00	Payments on account of depo-
Trustees,..... 6,600 00	sits in trust, since the 1st in-
Master in chance-	stant,..... \$53,556 00
ry,.....13,000 00	
Register in do... 5,000 00	
Females,..... 900 00	
Individuals believ-	
ed not to be in bu-	
siness,.....25,222 00	
In trust to accu-	
minate for chil-	
dren, 5 deposits, 5,843 70	
\$116,065 70	

Insurance on life by	
three persons, for	
\$7,000 ; premium	
rec'd,.....	158 40

Total amount invested on bond and mortgage,....	\$821,900 14
Loans on stock, payable on demand,.....	108,280 00
Gold in vault,.....	12,175 00
Cash in bank,.....	157,850 23
	\$1,100,206 07

The trustees feel their success to depend on public confidence, and on the conviction all their operations are just and prudent.

Mystery they avoid ; they solicit examination. And far from desiring to hide their operations, they are pleased with the opportunity of disclosing them, and will at all times be willing, as they feel themselves bound, to answer every inquiry the Chancellor may think proper to make of them.

With the greatest respect,

By order of the trustees,

WM. BARD, *President*.

City and county of Albany, ss.

William Bard, president of the New-York Life Insurance and Trust Company, being duly sworn, deposeth and saith, that the facts mentioned in the above report are, to the best of his knowledge and belief, true.

WM. BARD, *President*.

Sworn this 29th day of March, 1831,

Before me,

R. HYDE WALWORTH, *Chancellor*.

At a special meeting of the Board of Trustees, of the New-York Life Insurance and Trust Company, held 24th March, 1831 :

PRESENT,

WILLIAM BARD, <i>President</i> ,	ISAIAH TOWNSEND,
BENJAMIN KNOWER,	WILLIAM JAMES,
ISAAC BRONSON,	PETER HARMONY,
WM. B. LAWRENCE,	JOHN RATHBONE, Jun.
THOS. W. LUDLOW,	JAMES KENT,
JOHN HONE,	JAMES MCBRIDE,
THOS J. OAKLEY,	PETER REMSEN.
SAMUEL THOMPSON,	

The president read to the board the report prepared to be forwarded to the Chancellor, in obedience to his order of the 2d March, 1831 :

Resolved, on motion of Mr. Hone, seconded by Mr. McBride, that the trustees, having heard the report read, approve the same, and direct the president to sign it in the name of the trustees.

EDW. A. NICOLL, *Secretary*.

COPY OF BY-LAWS.

1. There shall be a stated meeting of the trustees on the first Tuesday of every month, to which a report shall be made by the president, of the concerns and business of the company during the past month; stating particularly the contracts that have been made, the sums of money that have been received, and on what account, the manner in which the same shall have been invested, and the amount remaining on hand.

2. The president may call a special meeting of the trustees whenever he may deem it proper. He shall also call a special meeting whenever any three of the trustees shall request him in writing to do so. Every stated or special meeting shall be called by a notice in writing to each trustee.

3. Nine trustees shall be a sufficient number to form a quorum for the transaction of business; but no by-law shall be adopted, nor any change or alteration made in the by-laws before established, unless at a meeting at which a majority of the whole number of the trustees shall be present, and upon a report of a committee appointed for that purpose.

4. The president shall preside at all meetings of the trustees. He shall be, *ex officio*, a member of all standing committees. He shall attend the meetings of any special committee when required by the chairman.

5. The president shall have the general direction and superintendence of the affairs of the company; and in all cases where the duties of the subordinate officers and agents of the company are not specially prescribed by the by-laws, or by a resolution of the board, they shall obey the orders or instructions of the president.

6. The president and secretary shall have power to make contracts of insurance on life, and for granting annuities in the name of the company, and to execute the same, and shall also have power to receive money in trust, where the rate of interest to be allowed shall not exceed four per cent.

7. The seal of the company shall be under the exclusive charge of the president, and shall not be affixed by him to any deed, conveyance, or instrument whatsoever, except certificates acknowledging satisfaction of any mortgages, unless by virtue of a special resolution of the board.

8. The president shall give a bond for the faithful performance of his trust, with sureties, to be approved by the board, in the penalty of twenty thousand dollars, which bond shall be annually renewed, and new or additional sureties may at any time be required by the board. Every bond, so taken, shall be so drawn as to remain until another bond be substituted.

9. The following standing committees, to consist each of four trustees, exclusive of the president, which committees shall hold their offices until others are appointed in their room, shall be elected quarterly by ballot, at a meeting at which not less than a majority of the whole number of the trustees shall be present, namely: a committee of finance, a committee of investments, and a committee of trusts.

10. The committee of finance shall superintend and direct all investments that shall be made of the funds of the company other than its capital, in stocks and personal securities, and shall receive and audit all accounts against the company.

11. The committee of investments shall superintend and direct all investments that shall be made of the capital and other funds of the company, in bonds and mortgages, or other real security.

12. The committee of trusts shall have the general superintendence of all special trusts; and no guardianship, receivership, or other special trust shall be accepted by the president in behalf of the committee, without their approbation and concurrence, nor without their approbation shall any moneys be received in trust on which a greater interest shall be allowed than four per cent.

13. The three standing committees shall form a general standing committee, whose duty it shall be to determine from time to time what funds of the company, other than its capital, shall be invested in bonds and mortgages, and other real securities, and what funds in stocks and other personal securities.

14. Regular minutes of the proceedings and resolutions of each committee shall be kept in books to be provided for that purpose, and each committee shall make a monthly report of its proceedings to the board.

15. No sum of money of a less amount than one hundred dollars shall be received in deposit.

16. Certificates of money received in trust, specifying the duration and terms of the trust, shall be issued when required by the person creating the trust; but in such case the moneys received

shall only be paid when due on the production of the original certificate.

17. Separate books of transfers shall be kept, in which transfers of shares of capital stock and of certificates of trust, where the same are assignable, shall be entered by the person entitled to make such transfer, or his special attorney; but in every such transfer the certificate before issued shall be delivered up, and a new certificate or certificates shall be issued.

18. Every report of a standing or a special committee, shall be in writing, and signed by the members of such committee assenting thereto.

WM. BARD, *President.*



RESOLVES BY THE BOARD.

At a meeting held on the 1st of April, 1830.

1st. On motion of Judge Oakley,

Resolved, That nine members, including the president, shall constitute a board for the transaction of business, till otherwise ordered.

Held June 16th, 1830.

All moneys deposited in trust, for a shorter term than one year, shall be deposited for a certain number of *months*, not less in any case than two months from the date of deposit.

In all cases where the moneys deposited in trust shall not be withdrawn at the expiration of the term of deposit, they shall remain with the company for another period, not less than thirty days, and be allowed the same interest as if originally deposited for the extended period.

When moneys so deposited in trust, for a period less than a year, shall have remained in deposit for 60 days, the same may be withdrawn at any time thereafter, and before the period for which the deposit was originally made, but in such cases, no interest will be paid on such deposit.

The above regulations shall not extend to moneys deposited by order of the Court of Chancery, or of any other court.

2d. The president then offered to the board for their examination, a device for the company's seal. The device is two concentric circles; between the two, the following words are engraved: "One million capital; New-York Life Insurance and Trust Company;" and within the inner circle, the following words and figures are engraved: "Protection for widows, children, and old age, 1830." The same being examined and approved, on motion of Mr. Bloodgood, the above device was adopted as the seal of the company.

At a meeting held the 3d August.

On motion of Judge Oakley, seconded by Mr. Prime,

Resolved, That the trustees residing in Albany, have the power of determining on the expediency of making all loans on real security for which application shall be made to the agent of the company, at that place, and that the company will make such loans when in funds, upon the certificate of the agent, and of B. F. Butler as to title, under such regulations as shall be prescribed by the committee of investments, and it shall always be competent for the committee of investments to determine whether the state of the funds of the company will authorise such loans.

At a meeting held 7th September.

The committee appointed at the last meeting of this board, to negotiate with the banks of this city, and to ascertain on what terms they will receive deposits from this company, collect their notes and transact the banking business of the company, beg leave respectfully to report: That after taking the necessary measures to fulfil the objects of their appointments, they have ascertained that no bank will agree to pay any interest on deposits; that with respect to the collection of monies out of the city of New-York, the United States branch bank, and the Manhattan company, offer greater accommodations than any other institution, and that those banks, as well as most of the others, without specially pledging themselves to any given amount, hold out every assurance that they will at all times afford the company any temporary loans for which they may have occasion. They would further report, that the propositions of each of the banks above mentioned, are founded on the supposition, that it shall exclusively do the banking business of the company.

On motion of Judge Oakley, seconded by Mr. Bloodgood,

Resolved, That the president be instructed to keep the bank account of the company, with the Manhattan company, and that said account be kept in the name of the company.

Resolved, That all moneys deposited, or otherwise, to the credit of the company, in the Manhattan bank, shall be drawn for by checks signed by the president, and countersigned by the secretary.

At a meeting held 4th January, 1831.

Resolved, In by-law No. 9, that the words "four trustees exclusive of the president," in the first and second line, be erased, and the words, "of not less than four, nor more than six," be written in their place:

The committee also recommended the following by-law, which was adopted.

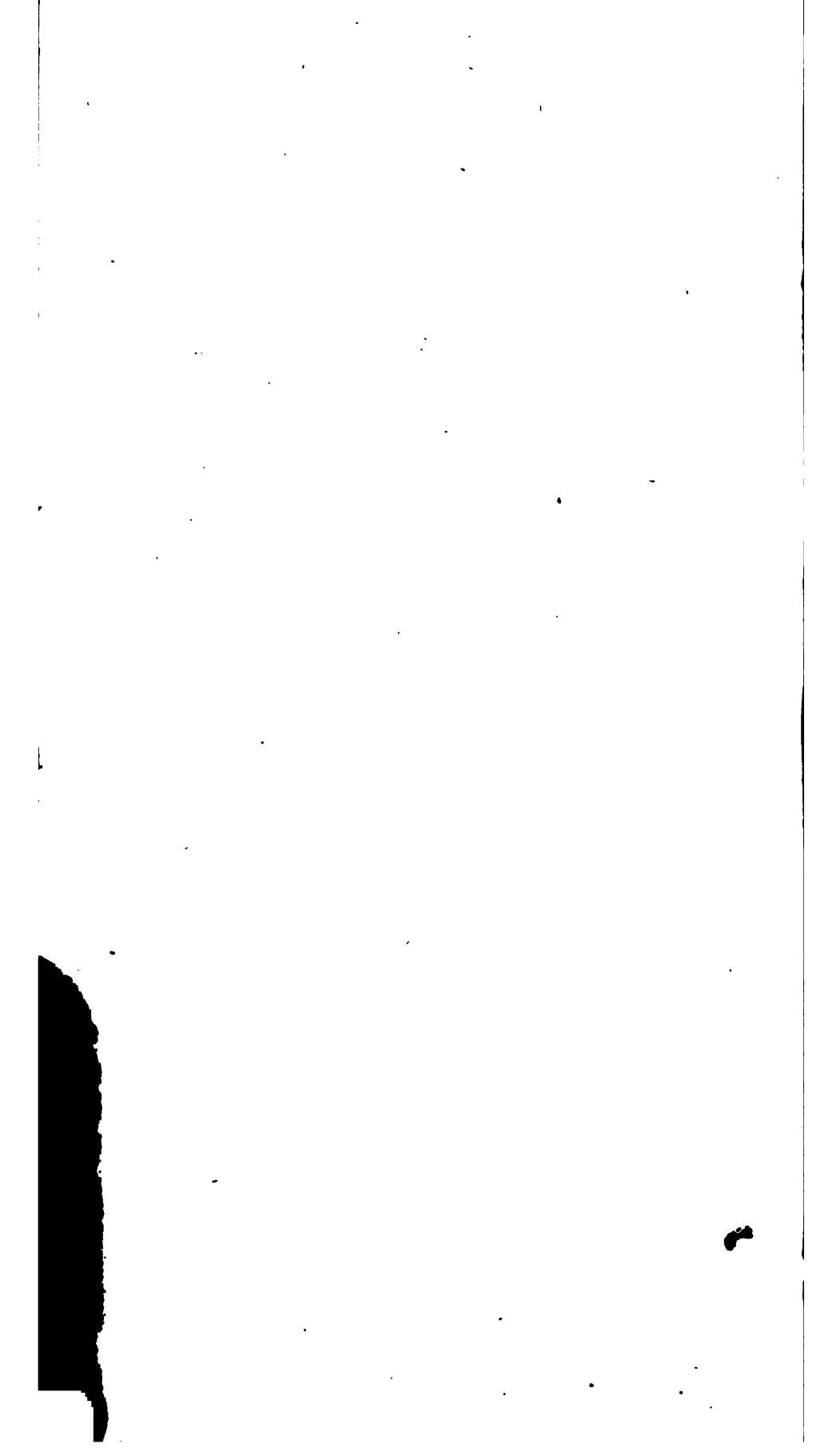
The president shall, in case of sickness or temporary absence, be authorised to appoint a president pro tem, to do the duties of president.

WM. BARD, *President.*

Filed March 29th, 1831.

(Copy.)

JAS. PORTER,
Register of the Court of Chancery.



No. 333.

IN ASSEMBLY,

March 25, 1831.

REPORT

**Of the committee on claims, on the petition of
Joseph Carley.**

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Joseph Carley,

REPORTED—

The petitioner alleges that he served for nine months, in the year 1779, as a private in Dubois's regiment, under General Sullivan; that he encountered many hardships and privations, and has never received any pay. These allegations are substantiated by the affidavit of James Wasson. But your committee have not been able to discover the liability of the State for the pay of the troops under General Sullivan, who are understood to have been in the service of Congress. Wasson, it seems, has received the land which belonged to the class for which he served, and the petitioner may be entitled to a class-right; but there is not sufficient evidence of such title, and the petition does not ask for land. Under these circumstances, your committee recommend to the House the adoption of the following resolution:

Resolved, That Joseph Carley have leave to withdraw his petition.



IN ASSEMBLY,

March 23, 1831.

REPORT

Of the committee on claims on the petition of Esther Chase.

Mr. J. C. Spencer, from the committee on claims, to whom was referred the petition of Esther Chase,

REPORTED—

The facts of this case are fully detailed in a report of the Comptroller made to the House of Assembly in 1825, which will be found in the Journals of that year, Appendix I. The following are the most important. On the 15th of September, 1795, Jeremiah Chase purchased of the State, lot No. 88, in Brothertown, containing 32½ acres, and executed his mortgage to secure the purchase money.— In 1821 the lot was sold by the Attorney-General. Although the sale was strictly legal, as the mortgage had become forfeited for non-payment of the purchase money, yet it was actually made under a belief that the interest had not been paid up; it being the custom not to foreclose mortgages except where the interest was in arrear. It turns out that the interest had been paid. By an act of 1822, the Commissioners of the Land-Office were directed to ascertain and pay the amount of loss which Clark Chase, son and heir of Jeremiah Chase, had sustained by the sale of the premises, and he was accordingly paid the sum of \$731.06 for his damages. The petitioner is the mother of Clark Chase and the widow of Jeremiah Chase, and she asks to be paid the value of her dower in the land sold.

As the original purchase money of the land has never been paid, it is obvious that the petitioner should in the first instance show what was the difference between the amount of the purchase money due,

and the value of the land at the time of the sale, for her dower would be only upon that difference. No evidence on that subject is furnished, although it is fairly to be presumed, that there was a difference. But it is very questionable whether the petitioner has any legal claim to dower in the premises. Our supreme court has held, that where land is conveyed and a mortgage for the purchase money is taken back, there is not such a *siesin* in the husband, as to entitle his wife to dower, as against the mortgagee. It seems therefore to be a case which addresses itself entirely to the equitable consideration of the Legislature. And while your committee would willingly recommend the payment of a small sum to satisfy the claim of the petitioner, if they had before them the materials to determine what sum she ought to receive, yet in the absence of all evidence on that subject, they recommend to the House the adoption of the following resolution:

Resolved, That Esther Chase have leave to withdraw her petition.

IN ASSEMBLY,

March 24, 1831.

REPORT

**Of the committee on public lands, on the petition of
Stephen Pray and others.**

Mr. Sprague, from the committee on public lands, to whom was referred the petition of Stephen Pray and others, settlers upon the tract of land called Cowasselon tract, purchased of the State in the fall of 1817,

REPORTED—

The petitioners set forth in their petition that their lands were appraised previous to the sale made by the State, at a time when agricultural productions were very high, and that the lands were sold for nearly double their value; that very soon after the purchase of their lands, the value of the produce of the farmer sunk in market, and disabled them to pay the State the purchase money. And they further express the belief that their lands were appraised at a sum greater than their intrinsic value, and higher than other land in that vicinity, which had been sold by the State.

The committee have no doubt but what the lands, or, most of the lots were appraised very high by the State, previous to the sale made in December 1817; but whether the lots were appraised above their value at that time, the committee are not prepared to say, but it appears from the following statement of facts, that they were not. From a detailed report made by the Comptroller on this subject, it will appear that there are 32 lots containing 3,426½ acres of land; that the whole was appraised at \$31,011.70, and that the whole was sold at auction by the State, for \$609.30 more than they were appraised at. The purchasers appear, from the table exhibited in the Comptroller's report, to be seventeen in number; and of those se-

[A. No. 336.]

venteen persons who were the first purchasers from the State, there does not appear to be but three of the persons names on the petition who were of the number of the first purchasers, and that the whole number of the petitioners is thirty-two. And it further appears from the facts set forth by the Comptroller's report, that some of these lots have been re-sold by the Surveyor-General, in 1822, for the non-payment of interest ; that they were the same year purchased from the State for the whole amount due on said lots, with costs of sale. This must have been after the principal fall in the price of lands.

From all the facts set forth in the Comptroller's report on this subject, and from what is stated in the petition, the committee are at a loss to determine who, if any, of these petitioners are entitled to a re-appraisal ; but it does appear to be wrong, with regard to strict justice or sound policy to the State, or to the petitioners, to grant the relief asked for in the petition.

The committee have directed their chairman to introduce the following resolution :

Resolved, That the prayer of the petitioners ought not to be granted.

IN ASSEMBLY,

March 25, 1831.

REPORT

Of the committee on claims, on the petition of
Augustus L. Elmore.

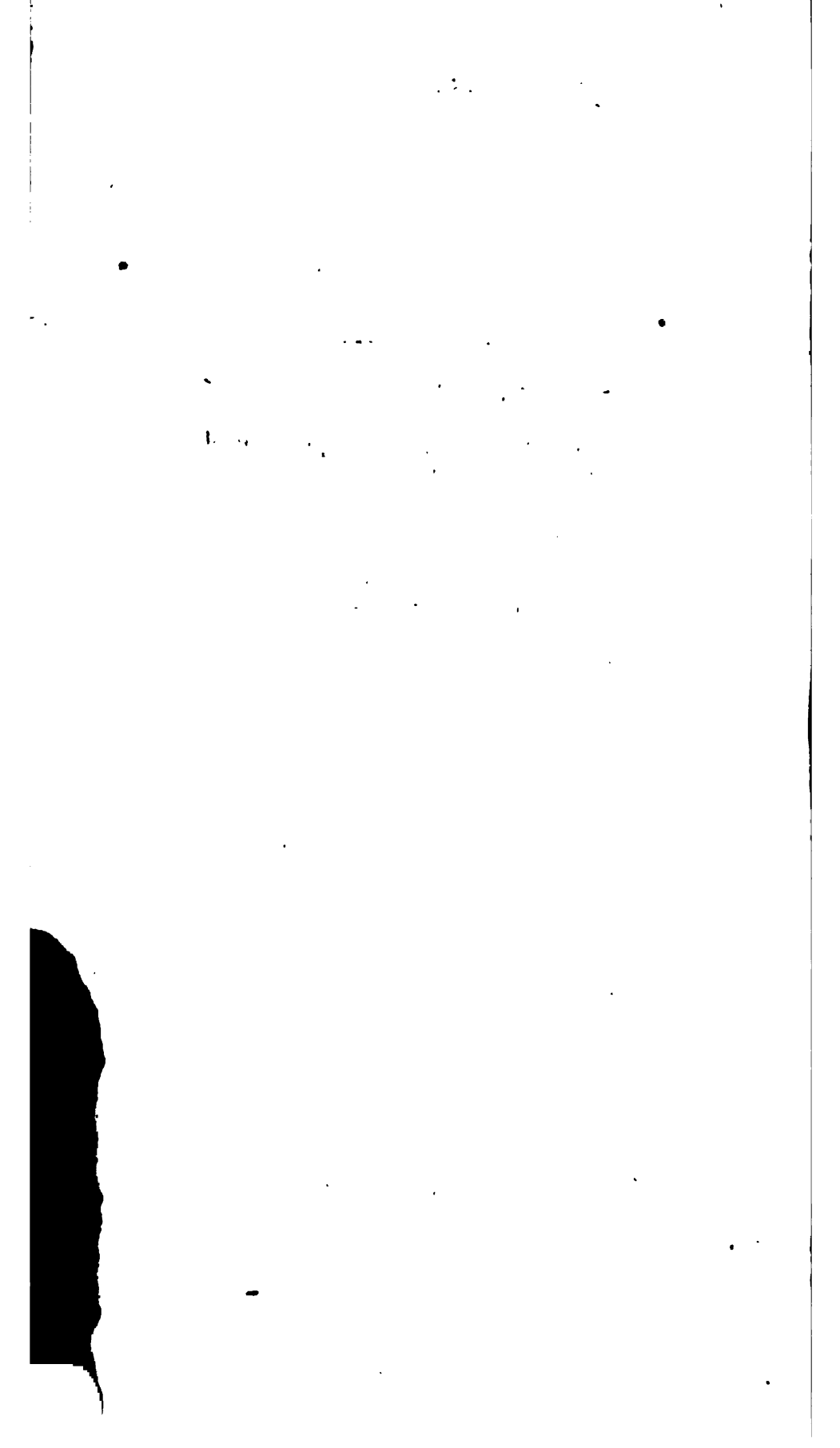
Mr. J. C. Spencer, from the committee on claims, to which was
referred the petition of Augustus L. Elmore,

REPORTED—

The petitioner alleges that he was the owner of a lot of land, supposed to be in Verona, in Oneida county, through which the Erie canal passes. It is not stated, but is perhaps inferrable from the petition, that he released to the State eight rods in width, for the canal. At all events, he says the State does not require the use of a strip of land each side of the canal, two rods wide, which he supposes belongs to it, and he asks that it be released to him. If the petitioner wishes to purchase the land, his application should be to the Canal Board, or to the Commissioners of the Land-Office—if legislative interference is necessary to authorise a sale, the committee on public lands or the canal committee, is the proper committee of this House, to consider the subject. The petitioner does not assert any claim or demand against the State, and of course the committee on claims has nothing to do with his case. There is no document or evidence of any kind accompanying the petition, so that it is impossible to determine what the rights of the petitioner really are.

Under these circumstances, your committee submit the following resolution to the House :

Resolved, That the committee on claims be discharged from the further consideration of the petition of Augustus L. Elmore.



IN ASSEMBLY,

March 25, 1831.

REPORT

Of the committee on claims, on the petition of the heirs of John Gates.

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of the heirs of John Gates,

REPORTED—

The petitioners ask for bounty land which they suppose they are entitled to, for the services of John Gates during the revolutionary war. By his affidavit made in 1810, it appears that although he was several times enlisted as a private, yet it was always for short periods, and not for during the war. He was afterwards an Ensign in Livingston's regiment, but in 1779 received a furlough, and in fact left the army. Of course he was not one of that class of officers who continued to serve until the end of the war, and was not on that account entitled to bounty lands. After receiving his furlough, he served as a mechanic in the public employ. This furnishes no claim for bounty lands. Your committee are unable to perceive any ground on which the claim of the petitioners can be sustained, and they therefore recommend to the House the adoption of the following resolution :

Resolved, That the prayer of the petition of Gertrude Gates and others, be denied.

IN ASSEMBLY,

March 26, 1831.

REPORT

Of the select committee on the petition of inhabitants of the village of Ithaca, in relation to the election of constables.

Mr. M'Dowell, from the select committee to whom was referred the petition of sundry inhabitants of the village of Ithaca, in the county of Tompkins, praying for a law to be passed to authorise the electors of said town to elect eight constables,

REPORTED—

That the committee have had the same under consideration, and from an examination of the facts set forth by the petitioners, and an intimate personal acquaintance with the business of the town of Ithaca, are unanimously of the opinion that the present number of constables as by law are authorised to be elected, are insufficient to do the business of said town : That a large proportion of the business of the county, both civil and criminal, is necessarily done in said village, it being the seat of justice for the county. The town of Ithaca contains a population of about seven thousand, and the village nearly four thousand.

From the above facts, your committee are of the opinion that the prayer of the petitioners ought to be granted, and have prepared a bill accordingly.

THE UNIVERSITY OF CHICAGO
LIBRARY



IN ASSEMBLY,

March 26, 1831.

ANNUAL REPORT

**Of Abner Hubbard, Inspector of Lumber, at
Rochester.**

**TO THE HONORABLE THE LEGISLATURE OF THE
STATE OF NEW-YORK.**

Annual report of lumber inspected at Rochester, Monroe county,
between the first days of January, 1830 and 1831, by Abner Hub-
bard, one of the inspectors of lumber for Monroe county.

73,425 feet first quality, worth.....	\$734 25
216,492 " second do. at \$7,.....	1,515 46
647,405 " third do. at \$5,.....	3,237 02
484,063 " fourth do. at \$4,.....	1,936 25
28,291 " joist and scantling, at \$5,	111 45
<hr/> 1,449,676	<hr/> \$7,534 43

Fees for inspecting same, \$271.81.

ABNER HUBBARD, *Inspector.*

IN ASSEMBLY,

March 26, 1831.

REPORT

Of the select committee on the petition of inhabitants of the town of Ovid, Seneca county.

Mr. Sayre, from the select committee to which was referred the petition of sundry inhabitants of Ovid, in Seneca county,

REPORTED :

The petitioners ask for authority to construct a wharf and harbor in the Seneca lake, south of what is called Sheldrake Point. By the existing law (article 4 of title 5, chapter 9, first part Revised Statute,) the Commissioners of the Land-Office are authorised to grant lands under the waters of navigable lakes, to the proprietors of the adjacent lands. This is in fact but a recognition of a common law right, which it would be improper to violate.

Your committee are therefore of the opinion that the prayer of the petition ought not to be granted, and they recommend to the House the following resolution :

Resolved, That the prayer of the petition of Daniel Jackson and other inhabitants of Ovid, be denied.

100-443887-1

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

IN ASSEMBLY,

April 2, 1831.

REPORT

Of the committee on charitable and religious societies, on the petition of the First Congregational Society of the town of Concord.

Mr. L. Benton, from the committee on the incorporation of charitable and religious societies, to whom was referred the petition of the trustees of the First Congregational society of the town of Concord, in the county of Erie, for a law authorising them to sell their real estate,

REPORTED—

That it appears by the representation of the petitioners that they, as trustees of the First Congregational society of the town of Concord, in the county of Erie, are possessed of fifty acres of land in said town: that the location of the said lot of land is such as to render it almost entirely useless to the said society; and therefore ask that a law may be passed authorising the sale of the said lot, and that the avails of said sale be applied to the use of said society.

The 11th section of the act to provide for the incorporation of religious societies, (3 vol. Revised Statutes, page 298,) in the opinion of your committee, provides fully for all cases where it may be necessary or proper for a religious incorporation to sell its real estate. The said 11th section enacts "that it shall be lawful for the chancellor of this State, upon application of any religious incorporation, in case he shall deem it proper, to make an order for the sale of any real estate belonging to such corporation, and to direct the application of the monies arising therefrom by the said corporation, to such uses as the same corporation, with the consent and approbation of

the chancellor, shall conceive to be most for the interest of the society to which the real estate so sold did belong."

If the above recited section of the present laws of our State provides fully for the prayer of the present petitioners, and also for those of a similar character, it cannot be necessary or proper that we should legislate upon the subject.

Your committee therefore beg leave to offer the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

IN ASSEMBLY,

April 7, 1831.

EIGHTH ANNUAL REPORT

Of the Board of Managers of the Troy Savings Bank,
for the year ending the first Monday of April,
1831.

TO THE HONORABLE THE LEGISLATURE OF THE
STATE OF NEW-YORK.

Pursuant to the provisions of the act entitled "An act to incorporate the Troy Savings Bank," the Board of Managers

REPORT :

That from the first Monday of April last, to the first Monday of April instant, there has been received from depositors in said Savings Bank, the sum of \$44,167.10 ; and that during that time there has been withdrawn from the bank, by depositors, the sum of \$17,624.16, including dividends paid ; and that \$240.46 have been paid for contingent expenses of the bank in the same time. That there is now deposited to the credit of the said bank, in the Bank of Troy, the sum of \$54,066.43, and in the Farmers' Bank the sum of \$42,988.23, in the whole \$97,054.66, being the amount received by the Troy Savings Bank, since the commencement of the institution, and the interest which has accrued thereon, after deducting the amount refunded to depositors, including dividends paid, and the amount paid for contingent expenses of the bank.

That the depositors in said bank have received dividends at the rate of five per cent. per annum, excepting the dividends made on the first Monday of October, 1829, which was at the rate of $5\frac{1}{2}$ per

cent. per annum ; and that there is now a surplus of interest amounting to \$2,122.58, which is carried to the credit of the profit and loss account.

All which is respectfully submitted.

TOWNSEND M'COUN, *President.*

I. L. LANE, *Secretary.*

Tray, April 4, 1831.

IN ASSEMBLY,

April 6, 1831.

REPORT

**Of the committee on claims, on the petition of
Abijah Hunt, &c.**

Mr. J. C. Spencer, from the committee on claims, to which was referred the petition of Abijah Hunt, and the report of the Attorney-General thereon,

REPORTED—

The petitioner solicits a release by the State of any right it may have by escheat to 200 acres, part of lot No. 23, in Sterling, on account of Archibald McKinley, the patentee, having died without heirs. This is asked on the ground of the petitioner having purchased the land of McKinley in fee. The Attorney-General is of opinion that McKinley had an estate in the land in fee, and that the title of the petitioner is therefore good. Your committee do not conceive themselves called upon to express any opinion on this point, any further than to say that the petitioner seems equitably entitled to a release of the title of the State. But this is one of those cases in which the statute requires a notice of the application to be published. As that has not been done, your committee ask to be discharged from the further consideration of the petition, and submit the following resolution :

Resolved, That the committee on claims be discharged from the further consideration of the petition of Abijah Hunt, and that the same be laid on the table.



IN ASSEMBLY,

April 20, 1831.

REPORT

**Of the select committee on the petition of Harvey
Ely and others.**

Mr. J. C. Spencer, from the select committee to which was referred the petition of Harvey Ely and others, executors of Josiah Bissell, jr.

REPORTED—

From the petition, and other sources of information, it appears, that Mr. Bissell died seised of a large real estate which is heavily encumbered by mortgages and other debts, and that it is devised by his will to his children. The authority of the surrogate does not extend to cases where the land is mortgaged, and the powers of the court of chancery cannot be exercised in opposition to the terms of a devise. Hence the present case seems to require legislative provision; and your committee have prepared a bill accordingly, which they have instructed their chairman to ask leave to introduce.

IN ASSEMBLY,

April 12, 1831.

ANNUAL REPORT

Of the Albany Savings Bank.

Albany, April 12, 1831.

SIR—

I have the honor to enclose the annual statement of the funds of the Albany Savings Bank, as they stood on the 1st January last.

I have the honor to be, sir,

With great respect,

Your most obedient servant,

H. BARTOW, *Treasurer.*

Hon. GEORGE R. DAVIS,

Speaker of the Assembly.

STATEMENT

Of the Funds of the Albany Savings Bank, Jan. 1st,
1831.

The amount of principal deposited since the incorporation of the bank, is	\$195,515 15	
The amount of interest accrued, is	19,350 35	
		<u>\$214,865 50</u>
The amount of principal withdrawn, is..	\$118,417 00	
The amount of interest withdrawn, is..	9,353 64	
		<u>127,770 64</u>
		<u><u>\$87,094 86</u></u>

Canal stock, viz:

\$12,500 at 6 per cent. cost,	\$12,437 50	
22,750 at 5 " "	22,207 64	
		<u>\$35,645 14</u>
Bond of the corporation of Albany,	20,500 00	
Due from the Commercial Bank,	30,949 72	
		<u><u>\$87,094 86</u></u>

The number of Depositors is five hundred and fourteen, the majority of whom are minors and persons in humble circumstances.

H. BARTOW, *Treasurer.*

IN ASSEMBLY,

April 12, 1831.

REPORT

**Of the committee on public lands, on the petition of
William A. Stone.**

Mr, Sprague, from the committee on public lands, to whom was referred the petition of William A. Stone, praying for the passage of a law to direct the Commissioners of the Land-Office to convey one hundred acres of land,

REPORTED—

The petition sets forth that the petitioner resides in the town of Vernon, county of Oneida, and claims one hundred acres of land for services rendered the Oneida tribe of Indians in furnishing the said Indians with food and other necessaries of life.

The committee have examined the petition, and that being the only evidence they have before them, and nothing therein contained in any degree to show the State is any way indebted to the said William A. Stone.

Resolved, therefore, That the prayer of the petitioner ought not to be granted.



IN ASSEMBLY,

April 18, 1831.

REPORT

Of the committee on agriculture, relative to horse-racing.

Mr. Gilchrist, from the standing committee on Agriculture, in obedience to a resolution of the House, requiring him to report on the expediency of extending by law the privilege of race courses to other counties of the State,

RESPECTFULLY REPORTS—

That your committee unanimously concur in the belief that a very great majority of the people of this State, disapprove of the passage of laws establishing race courses, and that they view with distrust the pretences usually assigned by petitioners, as reasons why such laws should be passed. Let us examine what some of these pretences are, and whether they will bear the scrutiny of investigation.

1st. It is pretended that they will have a tendency to improve the breed of horses. To this we deem it a sufficient answer, that correct taste, formed and guided by experience, and stimulated by pecuniary considerations, have already improved, and will continue to improve, our breeds, in every useful and ornamental quality, without the aid of race courses.

2d. To establish markets or fairs for the sale of horses. On this point, it may suffice merely to ask, whether the excitement produced by a horse race, among the crowds who resort to such places, be favorable toward effecting judicious purchases, or whether jockeying and swindling are not more likely to occur?

One more pretence only, shall be noticed, which is, that race courses, established and regulated by law, may have a tendency to suppress scrub or petty races. This appears to be rather a singular remedy. We submit, whether horse racing, in all its varieties of scrub, petty or grand, does not produce evils which are inherent in and inseparable from the system, and common to every kind of horse race? some of which we beg leave to notice.

First, it is submitted whether running horses for a bet or wager, does not involve some of the worst and most distinctive features of gambling. The result, it is true, is not decided by the cast of a die nor the spots on a card, but by a contingency equally uncertain, the fleetness of a horse. This is not all; if one of those noble animals should, unfortunately for himself, be found to possess the quality of swiftness, he is instantly put in training, brought on the race course, goaded into preternatural exertion by the whip and spur; not to subserve the convenience and comfort of man, his original destiny, but for the sordid purpose of transferring a *purse* from the pocket of one man to that of another. It is further submitted whether in this respect, the infliction of such cruelty for such a purpose, does not contravene our humane laws in relation to the cruel treatment of animals. Moreover, do not race courses produce evils unknown even to gambling within doors, inasmuch as they assemble the thoughtless and the profligate from a wide circle of territory, occasioning waste of time and of money, exposing such crowds to the contamination of evil communications, to intemperance and to every crime and danger incidental to such gatherings? And can it be sound policy to purchase such very equivocal good at the expense of so much positive evil? Or will it be pretended that any possible improvement in the breed of race horses, can compensate for this moral and physical deterioration in the breed of men?

It would be curious, though painful, to ascertain accurately, the number of insolvencies, of criminal convictions, the number of those who have become victims to gambling, intemperance, &c., who might have lived and died good citizens, but for the folly of having attended a horse race!

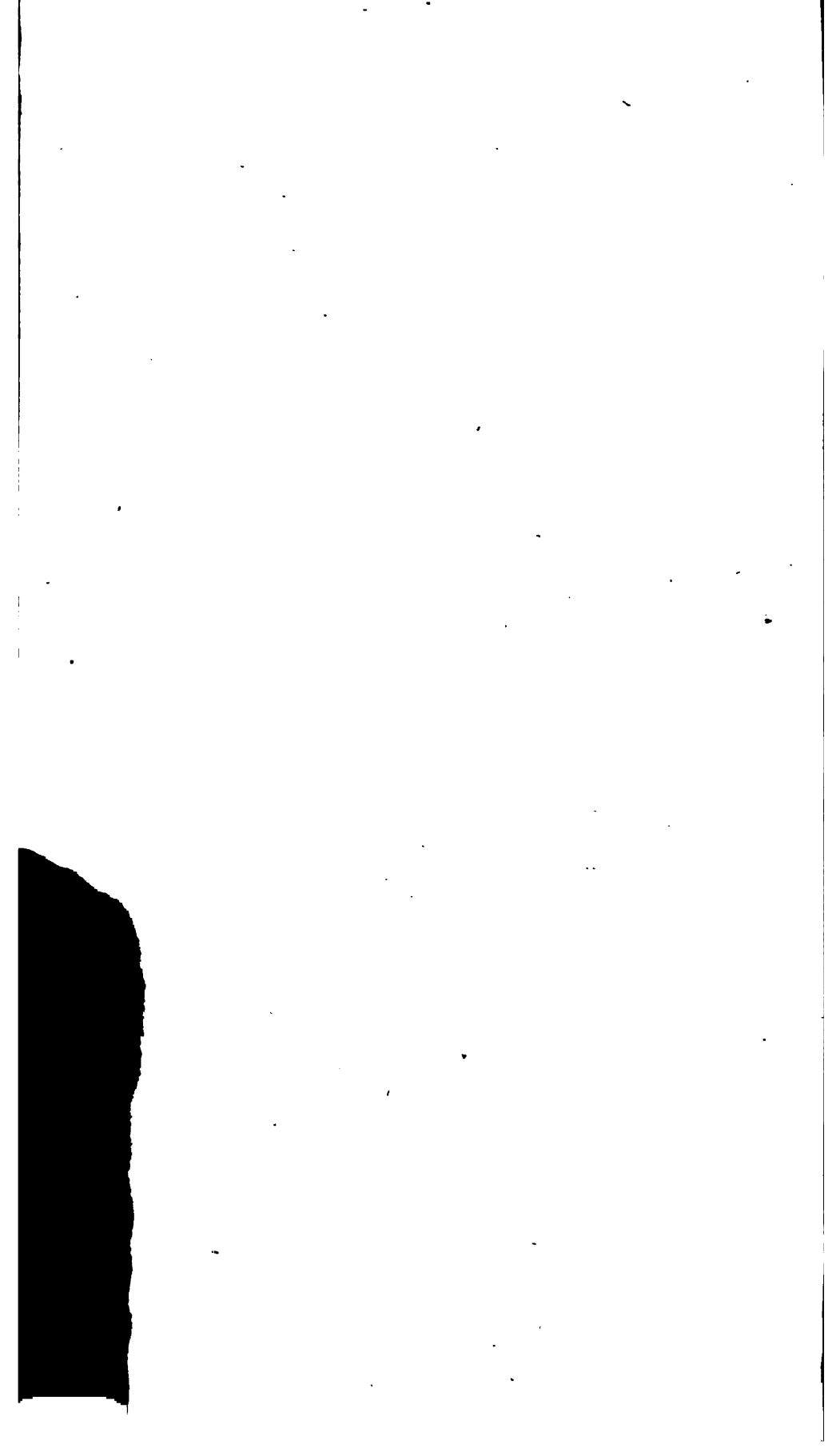
It must not, it cannot be questioned for a moment, that the gentlemen of this honorable House, individually, view with deep interest, the redeeming spirit that now pervades our country. The individual and social exertions to diffuse the blessings of intelligence

and virtue among our citizens, of every class and age, from the dawnings of infant thought up to maturity ; thus extending and deepening the basis on which our liberties are founded. Amongst those public benefactors, temperance societies deserve a conspicuous notice. But in vain will be their endeavors to reclaim the aged inebriate, or in forming regular and sober habits in the youth of our land, if their benevolent purpose pursued for years, should be liable to be checked or counteracted, by the exposure of thousands of our citizens to the temptations and irregularities of a race course, during a race week.

It only remains for your committee to discharge the duty assigned them by the resolution of the House, calling for this report. Viewing the practice as above stated, to be fraught with danger to the moral order of society, they with more than ordinary unanimity, disapprove of extending by law the privilege. They even anticipate the time (not distant they hope) when a great majority of the sound sense and patriotism of the respectable counties now authorised by law to run horses, will call for their repeal, and thus cease to be the pest houses of the state, so far as this species of gambling is concerned.

Your committee have spoken plainly—respectfully we hope—but duty to our constituents, to this honorable House, and to ourselves, require we should speak firmly. We recommend no intolerance—no sumptuary laws—blue, nor of any other color—but we *do* recommend that none be passed of a character likely to interpose any hindrance, even remotely, to that train of reform now in progress, and which must result in the melioration of the moral and physical condition of our citizens.

All which is respectfully submitted.



IN ASSEMBLY,

April 22, 1831.

REPORT

Of the Trustees of Union College, for the year 1830.

To the Honorable the Legislature of the State of New-York.

The Board of Trustees of Union College, respectfully report to the honorable the Legislature of the State of New-York, that the present Faculty consists of the following officers, viz :

ELIPHALET NOTT, *President.*

ROBERT PROUDFIT, *Professor of Greek and Latin Languages.*

JOEL B. NOTT, *Professor of Chemistry.*

BENJAMIN F. JOSLIN, *Prof. of Nat. Phil. and Mathematics.*

JOHN A. YATES, *Professor of Oriental Literature.*

ISAAC W. JACKSON, }
THOMAS C. REED, } *Assistant Professors.*
JOHN NOTT, }

CHESTER AVERIL, }
GEORGE EATON, } *Fellows.*
JESSE W. GOODRICH, }

That ninety-six young gentlemen were admitted to the degree of Bachelor of Arts, at the last annual commencement.

That the whole number of students for the current year, has been two hundred and twenty-seven.

That the annual expense of a student in the institution, including board, tuition and books, is about one hundred and twelve dollars.

The terms of admission, and the course of studies afterwards pursued, will appear from the statement accompanying this report.

That the Classical Library for the use of students is continued, from which indigent students receive their books gratis; and thirty-seven young men have been otherwise assisted during the past year, from the fund granted by the State for that purpose.

The thirty-five thousand dollars appropriated to the permanent support of officers; the five thousand dollars for establishing a classical library, and the five thousand dollars for aiding indigent youth, arising from the lotteries heretofore granted to Union College, has been and continues invested according to law, which investiture constitutes a permanent fund, amounting to forty-five thousand dollars.

They have only to add, that during the last year the students of the institution have generally prosecuted their studies in a satisfactory manner, and have been exemplary in their conduct.

HENRY YATES, *Clerk.*

January 20, 1831.

..... Blair
..... Legendre.





Admission into Union College.

Character.

Candidates are required to furnish evidence of their good moral character, and if from another college, a regular dismission or letter of request.

Age.

Sixteen years of age is requisite to admission : the candidate enters, however, any class for which he is qualified.

Payment.

There are three terms of study in each year, and the expense of each is paid in advance. Students unless from another college, entering the Sophomore class, pay \$7 ; the Junior \$9 ; and the Senior \$12, which is the only retrospective expense incurred by entering in advance.

Guardian.

All moneys intended for the use of students are required to be transmitted to the College Register, who acts as fiscal guardian in their behalf, and transmits to each parent, at the end of every term, a detailed account.

Annual Expense.

College bills, including board in the Hall,	\$98 00
Fuel and light,	8 50
Washing,	6 00
Total,	\$112 50

Students boarding out of the Hall, and students remaining in vacation, incur an additional expense for board.

The expense for clothing and pocket money, will vary according to the economy of individuals. A student who remains in vacation, may, with *strict* economy, clothe himself and pay all his other bills with less than \$200. A student not strictly economical, and who travels in vacation, will require from \$ to \$

CHARITY STUDENTS.

Their Annual Expense.

College bills,	\$1 50
Board in the Hall,	36 00

Carried forward,

Brought forward,.....	
Wood and light,.....	6 00
Washing,.....	6 00
<hr/>	
Total,.....	\$49 50

Residence.

Rooms are assigned the students in the same edifices that are occupied by the President and Professors, and their respective families.

Instruction.

The Freshman Class, for the most part, constitutes a department in the Academy, and is taught by the principal thereof. The other three classes are divided into Sections, according to attainment, or choice of the studies, and the several Sections are instructed by the President and Professors.

Government.

The government is, for the most part, parental and preventive, and devolves on the President and resident Professors. Those students who do not cheerfully submit to it, are silently dismissed. No student is allowed to visit taverns or groceries; to be out of his room at night, or to go out of town at any time, without permission; nor is any society allowed to hold their meetings at night.

Exercise.

Gymnastics and other athletic exercises are encouraged, and ample grounds are furnished free of expense, for those who prefer devoting their hours of recreation to agricultural pursuits.

Commencement.

Commencement is on the fourth Wednesday in July; after which there is a vacation of six weeks.

Vacations.

There are two other short vacations, the one sometime in December, the other in April. The Seniors have no additional vacations, nor are there any holydays. It is desirable that students should either return home, or visit their friends during the vacations. And when parents cannot provide for this, the faculty should be apprised of it, that provision be made for their instruction and government at college.

Merit Roll.

An accurate and daily account of the delinquencies of every student, and also of the degree of his attainment, in conduct, scholarship and attendance, is kept, and the summing up of these items de-

termines the place of each upon the Merit Roll ; a copy of which items is transmitted to the parent.

Examinations.

A committee is annually appointed, who examine the several classes publicly, at the close of each term, and make a written report thereof.



IN ASSEMBLY,

April 25, 1831.

REPORT

Of the committee on privileges and elections, on the petition of the supervisors of the county of Allegany.

Mr. Van Buren, from the committee on privileges and elections, to whom was referred the petition of the supervisors of the county of Allegany, praying for a law to reduce the general election in that county to one day,

REPORTED—

That the petitioners represent that a great (and in their opinion an unnecessary) expense is annually incurred by the inhabitants of that county, in defraying the charges of the officers attending the polls of the annual election three days successively; and that, considering the small size of *most* of the towns in that county, and the small number of votes taken in *each*, all the votes may be given in one day.

Your committee are not informed whether there is any difference of opinion among the inhabitants, or in the board of supervisors of that county; nor whether the other ten supervisors have been consulted on this subject; neither does your committee consider it necessary to inquire, whether they would deem it advisable to consider the interests of the towns they represent, to reduce the number of days of holding their election.

Although the petition does not claim to emanate from them as a board of supervisors, yet, inasmuch as sixteen out of the twenty-six supervisors, have signed it, your committee are willing to consider

that it is a fair representation of the wishes of the electors of the county of Allegany in relation to this subject.

In the opinion of the committee, the subject resolves itself into two questions—Is it proper and expedient that the general election should continue for three successive days in one county or town, two days in others, and but one in a third? Or, is it proper and expedient to reduce the general election throughout the State, from three to one or two days?

In the examination of these questions your committee are necessarily obliged to extend their views farther than the county of Allegany, and to consider the effects which would result as well to the whole State as to that county, upon granting the prayer of the petitioners.

The tendency of the age, and policy of our laws, has been to extend the elective franchise.

It is considered not only the high privilege, but the solemn duty of freemen, to express their opinion as to men and measures, and take a part in the choice of their rulers. And our free institutions will only be endangered when freemen become callous to the privilege, and regardless of their duty, in its exercise.

While the law of the land guarantees to every freeman the free, convenient and untrammelled enjoyment of this inestimable right: While it is made equal and universal, it is wisely provided that the election should be simultaneous—that every man should vote but once at the same election, and that in the town in which he resides.

While no one, unlawfully, is to be debarred from voting, it is wisely provided that no unlawful interference, or undue influence shall be allowed. And by declaring that the votes shall only be canvassed on the close of the third day, it has prevented the result in one place from biasing those in another.

If it is proper to innovate upon long established and universal practices, to say that an election which is now general and simultaneous in every county and in every town, shall be held one day in one county or town, two days in others, and three in a third, to suit the convenience of the electors of any town or county; if the paltry

pittance which each town pays to its officers presiding at the polls, is to be placed in competition with the convenience of the electors ; if rules of general policy are to give way to the caprice, convenience or wishes of a few—what will prevent other towns and counties from applying for a change of *time* of holding their elections, so as to suit the peculiar circumstances of their case, and thus the general election will eventually have nothing *general*, but the right of all to vote, and the excitement which necessarily and justly is felt on the occasion, instead of at once subsiding with the close of the poll on the third day in every part of the State, it will be felt and pervade different sections of our State at different periods, and will be continually rising and falling, and the irritability of public feeling be from day to day fed and increased by the results of the election in different places.

From the above reasons, and many others which might be urged, your committee are decidedly and unanimously of opinion, that it would be highly injudicious and inexpedient to grant the prayer of the petitioners, unless by a general law, reducing the term of holding the elections throughout the whole State to one day.

But, in the opinion of your committee, it is not proper and expedient to reduce the present number of days of holding the general election ; and having given to the subject that consideration which its importance demands, they present to the House a few of the reasons and arguments which influenced them in making up their decision.

The intelligence of the age has required, and the course of legislation on this engrossing subject has responded to it, in still extending the elective franchise farther and farther, in rendering its exercise more free and convenient—its enjoyment more untrammelled, and in guarding with a vigilant eye, against corruption and impurity either in the board of inspectors, or in the electors themselves.

By providing that it should be held for three successive days, full opportunity is given to all to avail themselves of the privilege, and leaves to none the excuse of want of time or opportunity for the performance of this imperious duty.

By holding it three days, an opportunity is afforded to the officers to hold the polls at three (or even more) distinct places in the re-

spective towns, thus bringing the ballot boxes, as it were, to every man's door.

Will the people suffer any retrograde movement to be made on this subject? Will they relinquish any one of their privileges? or will they surrender any of their just rights in relation to it? Will they suffer any restrictions to be put upon, or any obstacles to be placed in the way of its exercise? Will they consent to lose even that which may be considered merely a convenience in exercising it? Will the people for a moment countenance the idea, that the small sum to be paid by the towns in their collective capacity to the officers presiding at the polls, is to be put into competition with the individual convenience of the electors themselves? or, will they sanction the principle, that the convenience or interest of the few are paramount to the convenience or interest of the many?

Again—the principles of our present system are sanctioned by long and established practice and usages; under which the great republican family has been fostered and flourished. Ought we lightly to meddle with an institution of so much importance? Why should we introduce changes and innovations in a system which has so far operated well, when no evils or abuses are complained of? Why endanger or even derange a plan which is admitted on all hands to be good, for the purpose of providing for imaginary evils and difficulties?

Again—the right of choosing our own rulers, carries with it the power of preventing the unworthy or unqualified from interfering or participating with us in the election. This necessarily guarantees the right of challenge. And if the election was to continue but for one day, what would prevent a few designing and unprincipled men, after having placed their ballots in the ballot box, from challenging the vote of every other person, and thus, from the time (even supposing that every elector should promptly make oath) necessarily used in administering it to each successive elector, prevent the majority of the electors in most, at least in all the large towns in this State, from voting, for want of opportunity. Your committee are aware that this is an extreme and not a very probable case; but still, not wise and prudent to hold out the temptation to do wrong, by increasing the opportunities and facilities of putting it in practice? or is it prudent to place much in jeopardy, when nothing is to be gained?

Your committee, however willing they might be to gratify the wishes of the petitioners, cannot consistently with the duty they owe to this House, recommend the granting of the prayer of the petition, fraught as it is, in their opinion, with evil to the public interest, and without any corresponding benefit.

But admitting the propriety of innovation as to the county of Allegany ; and admitting the argument of the petitioners, that from the small size of the territory of their towns, and the small number of electors, that their votes could all be given and taken in one day, it is matter of serious doubt to your committee, whether the object of the petitioners, viz. the saving of expense would be obtained, inasmuch as the increased expenses of the individual electors, in being obliged to leave their homes at an expense of time and money, in order to go to one centre of the town for the purpose of voting, in the many being obliged to come to the few, instead of the few going to the many, would not greatly over balance the little saving of the fees to be paid to the inspectors of the polls for their attendance.

Your committee therefore recommend the passage of the following resolution :

Resolved, That the prayer of the petitioners ought not to be granted.

